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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1297]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2008. The Regulation D amendments set the amount of total reservable liabilities of each depository institution that is subject to a zero percent reserve requirement in 2008 at $9.3 million, up from $8.5 million in 2007. This amount is known as the reserve requirement exemption amount. The Regulation D amendment also sets the amount of net transaction accounts at each depository institution that is subject to a three percent reserve requirement in 2008 at $43.9 million, down from $45.8 million in 2007. This amount is known as the low reserve tranche. The adjustments to both of these amounts are derived using statutory formulas specified in the Federal Reserve Act.

The Board is also announcing changes in two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency at which depository institutions must submit deposit reports.

DATES: *Effective date:* October 31, 2007.

Compliance dates: For depository institutions that report deposit data weekly, the new low reserve tranche and reserve requirement exemption amount will apply to the fourteen-day reserve computation period that begins Tuesday, November 20, 2007, and the corresponding fourteen-day reserve maintenance period that begins Thursday, December 20, 2007. For depository institutions that report deposit data quarterly, the new low reserve tranche and reserve requirement exemption amount will apply to the seven-day reserve computation period that begins Tuesday, December 18, 2007, and the corresponding seven-day reserve maintenance period that begins Thursday, January 17, 2008. For all depository institutions, these new values of the nonexempt deposit cutoff level, the reserve requirement exemption amount, and the reduced reporting limit will be used to determine the frequency at which a depository institution submits deposit reports effective in either June or September 2008.

FOR FURTHER INFORMATION CONTACT: Heatherun Sophia Allison, Senior Counsel (202/452–3565), Legal Division, or Margaret Gillis DeBoer, Financial Analyst (202/452–3139), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations, for the purpose of implementing monetary policy. Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) authorizes the Board to require reports of liabilities and assets from depository institutions to enable the Board to conduct monetary policy. The Board's actions with respect to each of these provisions are discussed in turn below.

1. Reserve Requirements

Pursuant to section 19(b) of the Federal Reserve Act (Act), transaction account balances maintained at each depository institution are subject to reserve requirement ratios of zero, three, or ten percent. Section 19(b)(11)(A) of the Act (12 U.S.C. 461(b)(11)(A)) provides that a zero percent reserve requirement shall apply at each depository institution to total reservable liabilities that do not exceed a certain amount, known as the reserve requirement exemption amount.

Section 19(b)(11)(B) provides that, before December 31 of each year, the Board shall issue a regulation adjusting the reserve requirement exemption amount for the next calendar year if total reservable liabilities held at all depository institutions increase from one year to the next. No adjustment is made to the reserve requirement exemption amount if total reservable liabilities held at all depository institutions should decrease during the applicable time period. The Act requires the percentage increase in the reserve requirement exemption amount to be 80 percent of the increase in total reservable liabilities of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Total reservable liabilities of all depository institutions increased 11.0 percent (from $3,779 billion to $4,200 billion) between June 30, 2006, and June 30, 2007. Accordingly, the Board is amending Regulation D to increase the reserve requirement exemption amount by $0.8 million, from $8.5 million for 2007 to $9.3 million for 2008.[1]

Pursuant to Section 19(b)(2) of the Act (12 U.S.C. 461(b)(2)), transaction account balances maintained at each depository institution over the reserve requirement exemption amount and up to a certain amount, known as the low reserve tranche, are subject to a three percent reserve requirement. Transaction account balances over the low reserve tranche are subject to a ten percent reserve requirement. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The Act requires the adjustment in the low reserve tranche to be 80 percent of the percentage increase or decrease in total transaction accounts of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Currently, the low reserve tranche is $45.8 million. Net transaction accounts of all depository institutions decreased 5 percent (from $681 billion to $646 billion) between June 30, 2006 and June

[1] Consistent with Board practice, the low reserve tranche and reserve requirement exemption amounts have been rounded to the nearest $0.1 million.

30, 2007. Accordingly, the Board is amending Regulation D (12 CFR part 204) to decrease the low reserve tranche for net transaction accounts by $1.9 million, from $45.8 million for 2007 to $43.9 million for 2008.

For depository institutions that file deposit reports weekly, the new low reserve tranche and reserve requirement exemption amount will be effective for the fourteen-day reserve computation period beginning Tuesday, November 20, 2007, and for the corresponding fourteen-day reserve maintenance period beginning Thursday, December 20, 2007. For depository institutions that report quarterly, the new low reserve tranche and reserve requirement exemption amount will be effective for the seven-day reserve computation period beginning Tuesday, December 18, 2007, and for the corresponding seven-day reserve maintenance period beginning Thursday, January 17, 2008.

2. Deposit Reports

Section 11(b)(2) of the Federal Reserve Act authorizes the Board to require depository institutions to file reports of their liabilities and assets as the Board may determine to be necessary or desirable to enable it to discharge its responsibility to monitor and control the monetary and credit aggregates. The Board screens depository institutions each year and assigns them to one of four deposit reporting panels (weekly reporters, quarterly reporters, annual reporters, or nonreporters). The panel assignment for annual reporters is effective in June of the screening year; the panel assignment for weekly and quarterly reporters is effective in September of the screening year.

In order to ease reporting burden, the Board permits smaller depository institutions to submit deposit reports less frequently than larger depository institutions. The Board permits depository institutions with net transaction accounts above the reserve requirement exemption amount but total transaction accounts, savings deposits, and small time deposits below a specified level (the "nonexempt deposit cutoff") to report deposit data quarterly. Depository institutions with net transaction accounts above the reserve requirement exemption amount but with total transaction accounts, savings deposits, and small time deposits above the nonexempt deposit cutoff are required to report deposit data weekly. The Board requires certain large depository institutions to report weekly regardless of the level of their net transaction accounts if the depository institution's total transaction accounts, savings deposits, and small time deposits exceeds a specified level (the "reduced reporting limit"). The nonexempt deposit cutoff level and the reduced reporting limit are adjusted annually, by an amount equal to 80 percent of the increase, if any, total transaction accounts, savings deposits, and small time deposits of all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

From June 30, 2006 to June 30, 2007, total transaction accounts, savings deposits, and small time deposits at all depository institutions increased 5 percent (from $5,867 billion to $6,168 billion). Accordingly, the Board is adjusting the nonexempt deposit cutoff level to $216.2 million for 2008. The Board is also adjusting the reduced reporting limit to $1.211 billion for 2008.[2]

Beginning in 2008, the boundaries of the four deposit reporting panels will be defined as follows. Those depository institutions with net transaction accounts over $9.3 million (the reserve requirement exemption amount) or with total transaction accounts, savings deposits, and small time deposits greater than or equal to $1.211 billion (the reduced reporting limit) are subject to detailed reporting, and must file a Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900 report) either weekly or quarterly. Of this group, those with total transaction accounts, savings deposits, and small time deposits greater than or equal to $216.2 million (the nonexempt deposit cutoff level) are required to file the FR 2900 report each week, while those with total transaction accounts, savings deposits, and small time deposits less than $216.2 million are required to file the FR 2900 report each quarter. Those depository institutions with net transaction accounts less than or equal to $9.3 million (the reserve requirement exemption amount) and with total transaction accounts, savings deposits, and small time deposits less than $1.211 billion (the reduced reporting limit) are eligible for reduced reporting, and must either file a deposit report annually or not at all. Of this group, those with total deposits greater than $9.3 million (but with total transaction accounts, savings deposits, and small time deposits less than $1.211 billion) are required to file the Annual Report of Deposits and Reservable Liabilities (FR 2910a) report annually, while those with total deposits less than or equal to $9.3 million are not required to file a deposit report. A depository institution that adjusts reported values on its FR 2910a report in order to qualify for reduced reporting will be shifted to an FR 2900 reporting panel.

Notice and Regulatory Flexibility Act. The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. The adjustments in the reserve requirement exemption amount, the low reserve tranche, the nonexempt deposit cutoff level, and the reduced reporting limit serve to reduce regulatory burdens on depository institutions. Accordingly, the Board finds good cause for determining, and so determines, that notice in accordance with 5 U.S.C. 553(b) is unnecessary. Consequently, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601, do not apply to these amendments.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

■ 2. Section 204.9 is revised to read as follows:

§ 204.9 Reserve requirement ratios.

The following reserve requirement ratios are prescribed for all depository institutions, banking Edge and agreement corporations, and United States branches and agencies of foreign banks:

[2] Consistent with Board practice, the nonexempt deposit cutoff level has been rounded to the nearest $0.1 million, and the reduced reporting limit has been rounded to the nearest $1 million.

Category	Reserve requirement
Net transaction accounts:	
$0 to $9.3 million	0 percent of amount.
Over $9.3 million and up to $43.9 million	3 percent of amount.
Over $43.9 million	$1,038,000 plus 10 percent of amount over $43.9 million.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

By order of the Board of Governors of the Federal Reserve System, September 25, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–19263 Filed 9–28–07; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28462; Directorate Identifier 2007–CE–056–AD; Amendment 39–15115; AD 2007–13–11]

RIN 2120–AA64

Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2007–13–11, which was published in the **Federal Register** on June 22, 2007 (72 FR 34363), and applies to Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. AD 2007–13–11 requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots. The published AD references an incorrect docket of Docket No. FAA–2007–28432 instead of Docket No. FAA–2007–28462. This document corrects the docket number reference.

DATES: The effective date of this AD (2007–13–11) remains June 27, 2007.

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

SUPPLEMENTARY INFORMATION:

Discussion

On June 14, 2007, the FAA issued AD 2007–13–11, Amendment 39–15115 (72 FR 34363, June 22, 2007), which applies to Eclipse EA500 airplanes. AD 2007–13–11 requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots.

The published AD references an incorrect docket of Docket No. FAA–2007–28432 instead of Docket No. FAA–2007–28462.

Need for the Correction

This correction is needed to incorporate all docket information for this project into its own area in the Docket Management System (DMS).

Correction of Publication

Accordingly, the publication of June 22, 2007 (72 FR 34363), of Amendment 39–15115; AD 2007–13–11, which was the subject of FR Doc. E7–11933, is corrected as follows:

On page 34363, in the third column, in the fourth line, change "Docket No. FAA–2007–28432" to "Docket No. FAA–2007–28462."

On page 34364, in the first column, on line 25 under **ADDRESSES**, change "Docket No. FAA–2007–28432" to "Docket No. FAA–2007–28462."

On page 343645, in the third column, in the ninth and tenth lines under Comments Invited, change "Docket No. FAA–2007–28432" to "Docket No. FAA–2007–28462."

§ 39.13 [Corrected]

■ On page 34365, in the first column, in the fifth and sixth lines of § 39.13, change "Docket No. FAA–2007–28432" to "Docket No. FAA–2007–28462."

Action is taken herein to correct the docket number references and to add this AD correction to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The effective date remains June 22, 2007.

Issued in Kansas City, Missouri, on September 24, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–19193 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 97

[EPA–HQ–OAR–2003–0053; FRL–8476–1]

RIN 2060–AO54

Clean Air Interstate Rule (CAIR) and CAIR Federal Implementation Plans; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendments.

SUMMARY: In this rule, EPA is making a minor correction to the Clean Air Interstate Rule (CAIR) to restore a phrase of regulatory text related to State annual emissions reporting requirements that was inadvertently deleted when the rule was amended in 2006. This rule also corrects typographical errors in the spellings of three States in the CAIR regulatory text and corrects a typographical error in a section citation in the CAIR Federal Implementation Plans (FIPs) regulatory text.

DATES: *Effective Date:* These correcting amendments are effective on October 1, 2007.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0053. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742. This

action and other rulemaking actions related to the CAIR and CAIR FIPs are also available at EPA's CAIR Web site at *http://www.epa.gov/cair.*

FOR FURTHER INFORMATION CONTACT: Carla Oldham, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539–04, Research Triangle Park, NC 27711; telephone number (919) 541–3347, e-mail address: *oldham.carla@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 12, 2005, EPA published the CAIR in a final rule entitled, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NO_X SIP Call" (70 FR 25162). The CAIR requires affected States to reduce emissions of nitrogen oxides (NO_X) and sulfur dioxide (SO_2) that contribute significantly to nonattainment and maintenance problems in downwind States with respect to the national ambient air quality standards (NAAQS) for fine particulate matter ($PM_{2.5}$) and 8-hour ozone. Among other things, the rule establishes emissions reporting requirements for the affected States. On April 28, 2006, EPA amended the CAIR to include two additional States in CAIR with respect to the $PM_{2.5}$ NAAQS (71 FR 25288). On April 28, 2006, EPA published FIPs for the CAIR as part of a final rule entitled, "Rulemaking on Section 126 Petition From North Carolina to Reduce Interstate Transport of Fine Particulate Matter and Ozone; Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone; Revisions to the Clean Air Interstate Rule; Revisions to the Acid Rain Program" (71 FR 25328).

For a detailed description of the CAIR and the CAIR FIPs, please see the rulemaking actions which are available on EPA's Web site at *http://www.epa.gov/cair* and in the **Federal Register** at 70 FR 25162 (May 12, 2005), 71 FR 25328 (April 28, 2006), 71 FR 74792 (December 13, 2006), and 71 FR 25328 (April 28, 2006).

II. Why Are the Corrections Needed?

40 CFR 51.125 sets forth SO_2 and NO_X emission reporting requirements that must be included in State SIP revisions to meet the requirements of CAIR. Section 51.125(a)(1) as promulgated in the original CAIR read as follows: "Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin and the District of Columbia, must report annual (12 months) emissions of SO_2 and NO_X." (See 70 FR at 25333; May 12, 2005.) When EPA revised the CAIR in 2006 to add two additional States (Delaware and New Jersey) to the CAIR region for the $PM_{2.5}$ NAAQS, EPA revised § 51.125 to add the two States to the list of those required to report annual NO_X and SO_2 emissions. However, in revising the regulatory text, EPA inadvertently deleted the phrase "must report annual (12 months) emissions of SO_2 and NO_X" (71 FR at 25302; April 28, 2006). Therefore, EPA is correcting the error and restoring the phrase as originally promulgated in CAIR. The EPA is also taking this opportunity to correct the typographical errors in the spelling of three States in the list of States in § 51.125(a)(2) of CAIR.

EPA is also correcting a typographical error in a section reference in Appendix A to subpart EEEE of part 97 in the CAIR NO_X Ozone Season FIP.

III. What Is the Rulemaking Procedure?

The EPA is issuing this final rule without prior proposal or the opportunity for public comment because EPA finds that it is unnecessary and not in the public interest to provide such notice and opportunity for comment. Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to public interest, the Agency may issue a rule without providing notice and an opportunity to comment. Section 307(d)(1) of the Clean Air Act (CAA), among other things, further provides that CAA subsection 307(d) does not apply when EPA has made a good cause finding pursuant to subparagraph (B) of APA subsection 553(b). (See 42 U.S.C. 7607(d)(1).) In this rule, EPA finds that it is unnecessary and would serve no useful purpose for EPA to provide an opportunity for public comment because the changes to the CAIR and CAIR FIPs merely correct minor, inadvertent, and nonsubstantive errors. As explained above, the correction to 40 CFR section 51.125(a)(1) corrects a minor error that was inadvertently introduced in 2006 and restores the original language properly promulgated with significant public input in 2005. The additional spelling and citation corrections are minor, nonsubstantive corrections to eliminate errors in the regulatory text. Further, EPA provided notice, public hearings, and an opportunity to comment when promulgating the CAIR and CAIR FIPs. For these reasons, EPA finds pursuant to APA section 553 that good cause exists to promulgate this final rule without publishing notice of a proposed rule or providing an opportunity for public comment.

Section 553(d)(3) also allows an agency, upon a finding of good cause, to make a rule effective immediately. Because this action corrects inadvertent errors and helps to clarify requirements in the underlying rules, EPA finds good cause exists to make these corrections effective immediately.

IV. Statutory and Executive Order Reviews

This action only corrects minor, inadvertent and nonsubstantive errors in the CAIR and the CAIR FIPs promulgated in 2005 and 2006 respectively. For that reason, this rule: is not subject to review by the Office of Management and Budget under Executive Order 12866 Regulatory Planning and Review (58 FR 51735, October 4, 1993); is not a "major rule" as defined by 5 U.S.C. 804(2); and does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Because EPA found that for this action it is unnecessary to issue a proposed rule and invite public comment, this action is also not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104B4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The corrections do not have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, Federalism (64 FR 43255; August 10, 1999).

This action also does not significantly or uniquely affect the communities of Tribal governments, as specified in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). The corrections also are not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because

this action is not economically significant.

The corrections are not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because this action is not a significant regulatory action under Executive Order 12866.

The corrections do not involve changes to technical standards related to test methods or monitoring methods; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The corrections also do not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of this action in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective on October 1, 2007.

The EPA's compliance with the above statutes and Executive Orders for the underlying rules is discussed in Section X of the CAIR at 70 FR 25305 and in Section IX of the CAIR FIPs at 71 FR 25365.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Electric utilities, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Electric utilities, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 25, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, parts 51 and 97 of title 40, chapter I of the Code of Federal Regulations are amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

§ 51.125 [Amended]

■ 2. Section 51.125 is amended as follows:

■ a. In paragraph (a)(1), by removing the word "Columbia" and adding in its place the words "Columbia must report annual (12 months) emissions of SO_2 and NO_X".

■ b. In paragraph (a)(2), by removing the word "Deleware" and adding in its place the word "Delaware", by removing the word "Indinia" and adding in its place "Indiana", and by removing the word "Lousianna" and adding in its place "Louisiana".

PART 97—[AMENDED]

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

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

Appendix A to Subpart EEEE of Part 97 [Amended]

■ 4. Appendix A to Subpart EEEE is amended by revising the citation "97.344(a)" to read "97.343(a)".

[FR Doc. E7–19323 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0359–200736; FRL–8475–9]

Approval and Promulgation of Implementation Plans; Alabama; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Alabama State Implementation Plan (SIP) submitted on March 7, 2007. The Alabama Department of Environmental Management (ADEM) also previously submitted a final submittal dated June 16, 2006, which was subsequently updated in a prehearing request for parallel processing on November 16, 2006, to comply with EPA's revisions to the model rule. Alabama's final March 7, 2007, submittal replaces the State's June 16, 2006, and November 16, 2006, submittals. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006. EPA has determined that the SIP revision fully implements the CAIR requirements for Alabama. As a result of this action, EPA will also withdraw, through a separate rulemaking, the CAIR Federal Implementation Plans (FIPs) concerning sulfur dioxide (SO_2), nitrogen oxides (NO_X) annual, and NO_X ozone season emissions for Alabama. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006, and subsequently revised on December 13, 2006.

CAIR requires States to reduce emissions of SO_2 and NO_X that significantly contribute to, and interfere with maintenance of, the National Ambient Air Quality Standards (NAAQS) for fine particulates ($PM_{2.5}$) and/or ozone in any downwind state. CAIR establishes State budgets for SO_2 and NO_X and requires States to submit SIP revisions that implement these budgets in States that EPA concluded did contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is approving, Alabama has met the CAIR requirements by electing to participate in the EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions.

DATES: This rule is effective on October 31, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2007–0359. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section,

Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Harder can also be reached via electronic mail at *harder.stacy@epa.gov*.

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

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I. What Action Is EPA Taking?

EPA is taking final action to approve a revision to Alabama's SIP submitted on March 7, 2007. In its SIP revision, Alabama has met the CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. Alabama's regulations adopt by reference most of the provisions of EPA's SO_2, NO_X annual, and NO_X ozone season model trading rules, with certain changes discussed below. EPA has determined that the SIP as revised will meet the applicable requirements of CAIR. As a result of this action, the Administrator of EPA will also issue a final rule to withdraw the FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for Alabama. The Administrator's action will delete and reserve 40 CFR 52.54 and 40 CFR 52.55, relating to the CAIR FIP obligations for Alabama. The withdrawal of the CAIR FIPs for Alabama is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIPs was premised on a deficiency in the SIP for Alabama. Once a SIP is fully approved, EPA no longer has authority for the FIPs. Thus, EPA does not have the option of maintaining the FIPs following full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIPs.

EPA proposed to approve Alabama's request to amend the SIP on July 12, 2007 (72 FR 38045). In that proposal, EPA also stated its intent to withdraw the FIP, as described above. The comment period closed on August 13, 2007. No comments were received. EPA is finalizing the approval as proposed based on the rationale stated in the proposal and in this final action.

II. What is the Regulatory History of CAIR and the CAIR FIPs?

The CAIR was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for $PM_{2.5}$ and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_X for the ozone season (May 1 to September 30). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005, and April 28, 2006, CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. Analysis of Alabama's CAIR SIP Submittal

A. State Budgets for Allowance Allocations

In this action, EPA is taking final action to approve Alabama's SIP revision that adopts the following budgets for the State, i.e., 69,020 (2009–2014) and 57,517 (2015–thereafter) tons for NO_X annual emissions, 34,510 (2009–2014) and 29,146 (2015–thereafter) tons for NO_X ozone season emissions, and 157,582 (2010–2014) and 110,307 (2015–thereafter) tons for SO_2 emissions. The NO_X ozone season budget properly reflects the inclusion of NO_X SIP Call trading program units in the CAIR NO_X ozone season trading program, as discussed below. Alabama's SIP revision sets these budgets as the total amounts of allowances available

for allocation for each year under the EPA-administered cap-and-trade programs.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a compliance supplement pool (CSP), which is discussed below and under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone season trading program. In addition, States have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2 model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing one ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs.

In the SIP revision, Alabama has chosen to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. Alabama has adopted a full SIP revision (with the revisions discussed above) that adopts, with certain allowed changes discussed below, the CAIR model cap-and-trade rules for SO_2, NO_X annual, and NO_X ozone season emissions.

C. Applicability Provisions for Non-EGU NO_X SIP Call Sources

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR. States exercising this option need to add the applicability provisions in the State's NO_X SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO_X ozone season trading program all units required to be in the State's NO_X SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e. units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_X SIP Call trading program.

Alabama has chosen to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all non-EGUs in the State's NO_X SIP Call trading program.

D. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance allocation methodologies, States have flexibility with regard to: (1) The cost to recipients of the allowances, which may be distributed for free or auctioned; (2) the frequency of allocations; (3) the basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and (4) the use of allowance set-asides and, if used, their size.

Alabama has chosen to replace the provisions of the CAIR NO_X annual and CAIR NO_X ozone season model trading rules concerning the allocation of allowances with its own methodology. Alabama has chosen to distribute NO_X annual allowances based upon allocation methods for existing, replacement, and new units. As explained in the proposed approval, EPA understands that the language is intended to mean that allocations will be determined by the dates and only for the years identified or described in 40 CFR 96.141 and 40 CFR 96.341. EPA did not receive any comments on this issue, and concludes that this understanding is a correct interpretation of Alabama's rules. Additionally, Alabama's CAIR NO_X Annual and CAIR NO_X ozone season rules establish permanent allocations for specified units designated as "existing units" or "new units" and do not include provisions of the EPA's model rules that call for adjusting the allocations for existing units to provide allocations for future, new units.

Finally, Alabama's CAIR NO_X ozone season rule includes special provisions concerning the allocation of allowances for the 2009 control period. As discussed above, Alabama's rule expanded the applicability provisions of the model rule to include—as CAIR NO_X ozone season units—those units in Alabama's NO_X SIP Call program (i.e., Alabama's NO_X Budget Trading Program) that are not covered by model rule applicability provisions. Alabama already issued NO_X allowances to some of those units for 2009 under the NO_X Budget Trading Program. Alabama's rule

(in Rule 335–3.8–.29(3)(d)1.(i)) states that, if a unit was allocated more allowances under the NO_X Budget Trading Program for 2009 than it would otherwise be allocated under Alabama's allocation provisions generally applicable to CAIR NO_X ozone season units, then the Department "will allocate the same number of CAIR Ozone Season allowances" to that unit. The allocations to other units under the generally applicable allocation provisions will be reduced for 2009 in order to take account of this adjustment of the NO_X Budget Trading Program unit's 2009 allocation. Further, Alabama's rule (in Rule 335–3.8–.29(2)(a)1.) states that, for the 2009 control period, the Department will submit to the Administrator, for the purpose of recording allocations, "only the difference between the CAIR NO_X Ozone Season allowance allocations and the 2009 NO_X Budget Trading Program allowance allocations." In short, Alabama's rule treats each unit's 2009 NO_X Budget Trading Program allocation as a 2009 CAIR NO_X ozone season allocation for that unit that has been previously recorded by the Administrator. EPA therefore interprets Alabama's rule to provide that each 2009 NO_X Budget Trading Program allowance is a 2009 CAIR NO_X ozone season allowance, whether the NO_X Budget Trading Program allowance is still held by the owners and operators of the unit or has been transferred to other parties. Consistent with this interpretation of Alabama's rule, the Administrator—in operating the CAIR NO_X Ozone Season Tracking System—will treat each such allowance as usable for compliance with the allowance-holding requirements of the CAIR NO_X Ozone Season Trading Program by any CAIR NO_X ozone season source that holds the allowances in the source's compliance account as of the allowance transfer deadline, regardless of the State in which the source is located.

EPA is taking final action to approve the above-described variations in Alabama's rule from the model rule provisions because the changes are consistent with the flexibility that CAIR provides States with regard to allocation methodologies.

E. Allocation of NO_X Allowances From the Compliance Supplement Pool

The CAIR establishes a compliance supplement pool to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_X model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

Alabama has chosen to modify the provisions from the CAIR NO_X annual model trading rule concerning the allocation of allowances from the CSP. Alabama has chosen to distribute CSP allowances using an allocation methodology that allows the Department to allocate up to 10,166 additional CAIR NO_X allowances for the control period in 2009. CAIR NO_X units that achieve emissions reductions in 2007 and 2008, that are not necessary to comply with applicable emissions limitations during those years, may request early reduction credits. The units requesting CSP allocations must submit a request by May 1, 2009, to ADEM. Sources are eligible to receive CSP allowances only to the extent that that the total number of allowances issued does not exceed 15 percent of the total number of NO_X allowances issued to that unit from the initial allowance allocation. Any remaining CSP allowances after the initial distribution will be allocated to eligible units on a pro rata basis, provided that no unit is issued more allowances than the early reduction credits requested by that unit in accordance with ADEM's CSP provisions.

F. Individual Opt-In Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

Alabama has chosen to allow non-EGUs meeting certain requirements to opt into the CAIR trading programs by adopting by reference the entirety of EPA's model rule provisions for opt-in units in the CAIR SO_2, CAIR NO_X annual, and CAIR NO_X ozone season trading programs.

V. Final Action

EPA is taking final action to approve Alabama's full CAIR SIP revision submitted on March 7, 2007. Under this SIP revision, Alabama is choosing to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. EPA has determined that the SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA has determined that the SIP as revised will meet the requirements of CAIR. The Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for Alabama. The Administrator's action will delete and reserve 40 CFR 52.54 and 40 CFR 52.55. EPA will take final action to withdraw the CAIR FIPs for Alabama in a separate rulemaking.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For

this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50(c) is amended by:

■ a. Under Chapter 335–3–5 add in numerical order new entries for "335–3–5–.06," "335–3–5–.07," "335–3–5–.08," "335–3–5–.11," "335–3–5–.12," "335–3–5–.13," and "335–3–5–.14,"

■ b. Under Chapter 335–3–8 revise entries for "335–3–8–.05," and "335–3–8–.10."

■ c. Under Chapter 335–3–8 add in numerical order new entries for "335–3–8–.16," "335–3–8–.17," 335–3–8–.18," 335–3–8–.20," 335–3–8–.21," "335–3–8–.23," "335–3–8–.24," "335–8–.25," 335–3–8–.26," "335–3–8–.27," "335–3–8–.29," "335–3–8–.30," "335–3–8–.32," and "335–3–8–.33."

§ 52.50 Identification of plan.

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(c) * * *

EPA-APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter 335–3–5—Control of Sulfur Compound Emissions				
*	*	*	*	*
335–3–5–.06	State Clean Air Interstate Rule (CAIR) SO_2 Trading Program Provisions.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–5–.07	CAIR Designated Representative for CAIR SO_2 Sources.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–5–.08	Permits	04/03/07	10/01/07 [Insert citation of publication].	
335–3–5–.11	CAIR SO_2 Allowance Tracking System.	04/03/07	10/01/07 [Insert citation of publication].	

EPA-APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
335–3–5–.12	CAIR SO_2 Allowance Transfers ..	04/03/07	10/01/07 [Insert citation of publication].	
335–3–5–.13	Monitoring and Reporting	04/03/07	10/01/07 [Insert citation of publication].	
335–3–5–.14	CAIR SO_2 Opt-In Units	04/03/07	10/01/07 [Insert citation of publication].	
* * * *				
Chapter 335–3–8—Control of Nitrogen Oxide Emissions				
* * * *				
335–3–8–.05	NO_X Budget Trading Program	04/03/07	10/01/07 [Insert citation of publication].	
* * * *				
335–3–8–.10	NO_X Allowance Tracking System	04/03/07	10/01/07 [Insert citation of publication].	
* * * *				
335–3–8–.16	CAIR NO_X Annual Budget Trading Program.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.17	CAIR Designated Representative for CAIR NO_X Sources.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.18	CAIR Permits	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.20	CAIR NO_X Allowance Allocations	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.21	CAIR NO_X Allowance Tracking System.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.23	CAIR Monitoring and Reporting ..	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.24	CAIR NO_X Opt-In Units	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.25	CAIR NO_X Ozone Season Trading Program.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.26	CAIR Designated Representative for CAIR NO_X Ozone Season Sources.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.27	CAIR NO_X Ozone Season Permits.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.29	CAIR NO_X Ozone Season Allowance Allocations.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.30	CAIR NO_X Ozone Season Allowance Tracking System.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.32	CAIR NO_X Ozone Season Monitoring and Reporting.	04/03/07	10/01/07 [Insert citation of publication].	
335–3–8–.33	CAIR NO_X Ozone Season Opt-In Units.	04/03/07	10/01/07 [Insert citation of publication].	
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[FR Doc. E7–19352 Filed 9–28–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0540; FRL–8472–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations, Phase II

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving Indiana's oxides of nitrogen (NO_X) rules which satisfy the requirements of EPA's NO_X SIP Call Phase II Rule (the Phase II Rule). EPA is approving these regulations based on Indiana's demonstration that they will result in the achievement of the Phase II budget through source compliance with rules affecting stationary internal combustion (IC) engines which are identified in the NO_X plan submittal. Limiting NO_X emissions from IC engines will enable the State to meet the Phase II incremental difference of 4,244 tons

during the ozone season, thereby improving air quality and protecting the health of Indiana citizens. EPA is also approving other changes to Indiana's NO_X rules. These are minor clerical corrections and changes in definitions made by Indiana to conform to the revisions made by EPA in the Phase II Rule.

DATES: This final rule is effective on October 31, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0540. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone John Paskevicz, Engineer, at (312) 886–6084 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6084, *paskevicz.john@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What action is being taken by EPA?
II. Is my IC engine subject to these regulations?
III. Why is the Indiana IC engine program approvable?
IV. Statutory and Executive Order Reviews

I. What action is being taken by EPA?

We are approving the Phase II Rule, submitted by Indiana on March 8, 2006 and supplemented on June 22, 2006, to control NO_X emissions from IC engines in Indiana. EPA proposed to approve the Phase II Rule on May 30, 2007 (72 FR 29897), and received no comments.

Indiana's Phase II Rule is consistent with the NO_X SIP Call Technical Amendments published in the **Federal Register** dated April 21, 2004, (69 FR 21604). The State has shown, through its budget demonstration, that it can achieve the Phase II budget increment through source compliance with the State's rules affecting IC engines and the State's permitting program. Meeting the Phase II budget increment and the Phase I increment means the State will meet its total overall ozone season NO_X budget and bring about reductions in ozone concentrations in the State and downwind from Indiana.

EPA is also approving other changes to Indiana's NO_X SIP. These other changes are minor clerical corrections and changes in definitions to conform to the changes made by EPA in the NO_X Phase II Rule.

II. Is my IC engine subject to these regulations?

New rule 326 IAC 10–5 applies to any person who owns or operates a large stationary reciprocating IC engine or other smaller stationary IC engines that are included in a compliance plan. A large IC engine is defined as an engine that emits more than one ton of NO_X per ozone season day, based on operation during the 1995 ozone season. Pipeline energy companies are the major users of large IC engines and the State developed its budget demonstration based on control of engines used in this energy transport industry.

III. Why is the Indiana IC engine program approvable?

The Indiana IC engine program is approvable because implementation of the program will result in reduction of NO_X and meet the cap in emissions for units in this source category. The Indiana program meets the Phase II incremental difference of 4,244 tons per ozone season, as specified in the April 21, 2004 **Federal Register** (69 FR 21604).

The minor amendments to 326 IAC 10–3 and 326 IAC 10–4 are also approvable as they clarify regulatory language and correct various clerical errors. They also incorporate changes applicable to EGUs and non-EGUs, made in accordance with EPA's Phase II Rule, including the definitions of "EGU" and "non-EGU" as applied to co-generation units.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant regulatory action," this action is also not subject to Executive Order 13211, Actions Concerning Regulations That Significantly "Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection. Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 17, 2007.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(184) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(184) Indiana Department of Environmental Management submitted amendments to the State Implementation Plan to control nitrogen oxide emissions from internal combustion engines in 326 Indiana Administrative Code (IAC) 10–5 and corrections to 326 IAC 10–3–3 and 326 IAC 10–4 on March 8, 2006.

(i) *Incorporation by reference.* The following sections of the Indiana Administrative Code (IAC) are incorporated by reference.

(A) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 3: Nitrogen Oxide Reduction Program for Specific Source Categories, Section 3: Emissions limits. Filed with the Secretary of State on January 27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1876).

(B) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 4: Nitrogen Oxides Budget Trading Program, Section 1: Applicability, Section 2: Definitions, Section 3: Retired unit exemption, Section 9: NO_X allowance allocations, Section 13: Individual opt-ins, Section 14: NO_X allowance banking, and Section 15: Compliance supplement pool. Filed with the Secretary of State on January 27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1877).

(C) Title 326: Air Pollution Control Board, Article 10: Nitrogen Oxides Rules, Rule 5: Nitrogen Oxide Reduction Program for Internal Combustion Engines (ICE). Filed with the Secretary of State on January 27, 2006, effective February 26, 2006. Published in the Indiana Register on March 1, 2006 (29 IR 1899).

[FR Doc. E7–19217 Filed 9–28–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA–R02–OAR–2007–0233; FRL–8472–5]

Approval and Promulgation of Implementation Plans; New Jersey: Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to New Jersey's State Implementation Plan (SIP) submitted on February 6, 2007, and subsequently revised on July 9, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), and the CAIR Federal Implementation Plan (CAIR FIP) concerning SO_2, NO_X annual, NO_X ozone season emissions for the State of New Jersey. The SIP revision that EPA is fully approving is an "abbreviated" SIP revision that addresses the methodology to be used to allocate annual and ozone season NO_X allowances under the CAIR FIPs. The SIP revision that EPA is approving will also satisfy New Jersey's 110(a)(2)(D)(i) obligations to submit a SIP revision that contains adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. EPA is not making any changes to the CAIR FIP, but is amending the appropriate appendices in the CAIR FIP trading rules simply to note approval of New Jersey's SIP revision.

DATES: This rule is effective on October 31, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2007–0233. All documents in the docket are available online at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: For information, contact Mr. Kenneth Fradkin, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, phone number (212) 637–3702 or by e-mail at: *fradkin.kenneth@epa.gov*.

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I. What Action Is EPA Taking?

CAIR SIP and 110(a)(2)(D)(i) Approval

EPA is taking final action to approve a revision to New Jersey's SIP, submitted on February 6, 2007, as revised. In response to EPA's comments provided during New Jersey's rulemaking and in the proposed approval, New Jersey adopted new rules regarding the Clean Air Interstate Rule (CAIR) NO_X Trading Program on June 19, 2007. The State submitted these rules to EPA on July 9, 2007. The adoption was published in the New Jersey Register on July 16, 2007 (39 N.J.R. 2637(a)). The SIP revision modifies the application of certain provisions of the CAIR FIPs that require emission reductions of SO_2, NO_X annual, and NO_X ozone season emissions. This less comprehensive CAIR SIP is termed an abbreviated SIP. This revision includes a new regulation, N.J.A.C. 7:27–30, Clean Air Interstate Rule (CAIR) NO_X Trading Program. As part of the revision, New Jersey has also adopted N.J.A.C. 7:27–31.23 to provide the date when New Jersey's CAIR NO_X Trading Program will replace New Jersey's NO_X Budget Trading Program (Subchapter 31). New Jersey has also adopted "7:27A–3.10 Civil administrative penalties for violation of the rules adopted pursuant to the Act."

New Jersey is subject to the CAIR FIPs that implement the CAIR requirements by requiring certain Electric Generating Units (EGUs) to participate in the EPA-administered Federal CAIR SO_2, NO_X annual, and NO_X ozone season cap-and-trade programs. The SIP revision provides a methodology for allocating NO_X allowances for the NO_X annual, and NO_X ozone season trading programs. The CAIR FIPs provide that this methodology, upon approval by EPA, will be used to allocate NO_X allowances to sources in New Jersey, instead of the federal allocation methodology otherwise provided in the FIPs. The SIP revision also retires rather than allocates allowances from the NO_X annual Compliance Supplement Pool (CSP).

EPA has determined that New Jersey's CAIR NO_X Trading Program, as finalized in the New Jersey Register on July 16, 2007 ((39 N.J.R. 2637(a)), satisfies the applicable requirements for an abbreviated CAIR SIP revision. Consistent with the flexibility provided in the FIPs, the provisions of New Jersey's CAIR NO_X Trading Program will be used to replace or supplement, as appropriate, the corresponding provisions in the CAIR FIPs for New Jersey. EPA will not make any changes to the CAIR FIP, but will amend the appropriate appendices in the CAIR FIP trading rules simply to note approval of the New Jersey CAIR NO_X Trading Program.

EPA is also approving "N.J.A.C. 7:27–31.23 Replacement of the NO_X Budget Program" which establishes a transition date for the replacement of the State's NO_X Budget Program (Subchapter 31), beginning with the 2009 control period, with the New Jersey CAIR program.

In addition, EPA is also approving a revision to New Jersey's SIP to address the requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA). This section of the CAA requires each state to submit a SIP that contains adequate provisions to prohibit sources in the state from emitting any air pollutants in amounts which will: (1) Contribute significantly to downwind nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

On July 3, 2007, EPA proposed full approval of New Jersey's SIP revision provided that New Jersey's final rule was consistent with the modifications provided in EPA's comments during rulemaking and in its proposal (72 FR 36406). EPA has determined that New Jersey's revised CAIR rule, adopted June 19, 2007, has addressed the concerns, discussed in its comments during rulemaking and in the proposed approval, regarding shutdown units, correction of allocations to new and existing units, and prorating for the New Source/Growth Reserve. The comment period for the EPA proposal closed on August 2, 2007. No comments were received. EPA is finalizing full approval based on the rationale stated in the proposal and in this final action.

II. What Is the Regulatory History of the CAIR and the CAIR FIPs?

The Clean Air Interstate Rule (CAIR) was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 states and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the National Ambient Air Quality Standards (NAAQS) for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind states in the eastern part of the country. As a result, EPA required those upwind states to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual state-wide emission reduction requirements (i.e., budgets) for SO_2 and annual state-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets state-wide emission reduction requirements for NO_X for the ozone season (May 1st to September 30th). Under CAIR, states may implement these emission budgets by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject states what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the CAA with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective May 25, 2005, that the subject states had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were

due in July 2000, 3 years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These May 25, 2005 findings started a 2-year clock for EPA to promulgate a Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated. On August 17, 2006, EPA issued guidance for SIP submissions states should make to address the requirements of section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS.

On April 28, 2006, EPA promulgated FIPs for all states covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. Each CAIR state is subject to the FIPs until the state fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require certain EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone-season model trading programs, as appropriate. The CAIR FIP SO_2, NO_X annual, and NO_X ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the CAIR FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all states covered by a CAIR FIP or SIP trading program for that pollutant. The CAIR FIPs also allow states to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement the corresponding CAIR FIP provisions (e.g., the methodology for allocating NO_X allowances to sources in the state), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published CAIR-related final rules that added the states of Delaware and New Jersey to the list of states subject to CAIR for $PM_{2.5}$.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes state-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires states to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs, or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that states must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only states that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for states that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for states that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. What Is the Result of EPA's Evaluation of New Jersey's CAIR SIP Submittal?

A. State Budgets for Allowance Allocations

The CAIR FIP established the EGU budgets for New Jersey as 12,670 tons for the years 2009–2014 (Phase I) and 10,558 tons for the years 2015 and beyond (Phase II) for NO_X annual emissions; 6,654 tons for the years 2009–2014 (Phase I) and 5,545 tons for the years 2015 and beyond (Phase II) for NO_X ozone season emissions; and 32,392 tons for the years 2010–2014 (Phase I) and 22,674 tons for the years 2015 and beyond (Phase II) for SO_2 emissions. New Jersey's SIP revision does not affect these budgets, which are the total amount of allowances available for allocation for each year under the EPA-administered cap-and-trade program under the CAIR FIP. In short, the abbreviated SIP revision only affects allocations of allowances under the established budgets.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season FIPs both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone-season FIPs are similar, there are some differences. For example, the NO_X annual FIP (but not the NO_X ozone season FIP) provides for a Compliance Supplement Pool (CSP), discussed below, under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season FIP reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program for EGUs after the 2008 ozone season and is coordinated with the NO_X SIP Call program. States also have the option of continuing to meet their NO_X SIP Call non-EGU reduction obligations by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program. In addition, the NO_X ozone season FIP provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program.

The provisions of the CAIR SO_2 FIP are also similar to the provisions of the NO_X annual and ozone season FIPs. However, the SO_2 FIP is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2 FIP uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for federal rather than state implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs.

New Jersey is subject to the CAIR FIPs for ozone and $PM_{2.5}$ and the CAIR FIP trading programs for SO_2, NO_X annual, and NO_X ozone season apply to sources in New Jersey. Consistent with the flexibility it gives to states, the CAIR FIPs provide that states may submit abbreviated SIP revisions that will replace or supplement, as appropriate, certain provisions of the CAIR FIP trading programs. The submission by New Jersey on February 6, 2007, as subsequently revised and submitted on

July 9, 2007, is such an abbreviated SIP revision.

C. Applicability Provisions for non-EGU NO_X SIP Call Sources

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in a state's NO_X SIP Call trading program that are not EGUs as defined under CAIR. EPA advises states exercising this option to use provisions for applicability that are substantively identical to the provisions in 40 CFR 96.304 and add the applicability provisions in the State's NO_X SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO_X ozone season trading program all units required to be in the State's NO_X SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e. units serving a generator with a nameplate capacity of 25 MWe or less), that the State currently requires to be in the NO_X SIP Call trading program.

Consistent with the flexibility given to states in the CAIR FIP, New Jersey has chosen not to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all non-EGUs in the State's NO_X SIP Call trading program. New Jersey's non-EGUs and small electric generating units (EGUs) will be subject to Reasonable Available Control Technology (RACT) or state of the art rules.

D. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIPs, NO_X annual and NO_X ozone season allowances are allocated to units that have operated at least for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIPs also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions. The CAIR FIPs provide states the flexibility to establish a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the states if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period.

New Jersey has chosen to replace the provisions of the CAIR NO_X annual and ozone season FIP concerning allowance allocations with its own methodology. New Jersey will distribute NO_X annual and ozone season allowances to CAIR units based upon historical electrical and thermal output. Allowances will be distributed and not auctioned. The distribution of allowances will be based on the previous three years of data. New Jersey has established set-asides for new source/growth ("New Source/Growth Reserve"), and energy efficiency and renewable energy programs or techniques ("Incentive Reserve"). Each year, New Jersey is allocating ten percent of the State's CAIR NO_X annual and CAIR NO_X ozone season budgets to the New Source/Growth Reserve, and five percent of the State's CAIR NO_X annual and CAIR NO_X ozone season budgets to the Incentive Reserve. Additional details regarding New Jersey's NO_X allocation methodology can be found in EPA's proposal to approve New Jersey's SIP revision, which was published in the **Federal Register** on July 3, 2007 (72 FR 36406).

In the proposal published on July 3, 2007, EPA stated that several provisions of New Jersey's NO_X allocation proposal were inconsistent with the NO_X allocation timing requirements of the abbreviated SIP revision requirements and the CAIR FIP trading programs. EPA further stated that full approval of New Jersey's proposed regulation was contingent upon New Jersey modifying their proposed rule in order to clarify that EPA's NO_X allocation timing requirements will be met under New Jersey's program. Sections 51.123(p)(1)(ii)(B) and (ee)(2)(ii)(C) of CAIR require that the State determines and notifies the Administrator of each existing unit's allowance allocation at least 3 years in advance of the CAIR FIP NO_X annual and ozone season programs. Sections 51.123(p)(1)(ii)(C) and (ee)(2)(ii)(D) require that the state determines, and notifies the Administrator of each new unit's allowances by October 31 (for the CAIR NO_X annual trading program) or July 31 (for the CAIR NO_X ozone season trading program) of the year for which the allowances are being allocated.

As we indicated in our July 3, 2007 proposal, New Jersey's proposed regulation did not meet NO_X allocation timing requirements for existing or new units that must surrender and transfer allowances to EPA for retirement for the year in which the unit shuts down and any year thereafter. As written in New Jersey's proposed rule, the owner or operator of an existing unit that is required to surrender allowances will no longer be able to buy or sell allowances, or undertake other allowance market activities, that were provided three years in advance and already recorded into their compliance account. EPA indicated that it was not clear from New Jersey's proposal what the timing would be for surrendering the allowances, and whether the State intended for recorded allowances to be surrendered.

In response to EPA's comment, New Jersey modified its rule concerning allocations for shutdown units. EPA has determined that the modification is acceptable because it terminates future allocations once a unit is permanently shut down, but does not take back any allowances that were previously allocated to the unit.

EPA also indicated, in our July 3, 2007 proposal, that New Jersey's regulation as proposed did not meet NO_X allocation timing requirements with regard to the provision in New Jersey's rule that provides the state may determine that existing (or new) units for current or past years had been erroneously allocated too many or too few allowances based on inaccurate data or projections. As written in the proposed rule, it was unclear how long after determination and recordation of an allocation New Jersey may determine that the allocation was incorrect.

In response to EPA's comment, New Jersey modified its rule concerning the correction of allocations for existing and new units. EPA has determined that the modification is acceptable because it allows corrections only before, and not after, the EPA Administrator records the allocations. This removes the potential for taking back units' allocations after recordation.

EPA also indicated in our July 3, 2007 proposal that New Jersey's proposed rule also provided that if the sum of new unit allocations (determined by October 31 or July 31 of the year for which allocations are made) and the existing unit growth allocations (determined by the end of the year for which allocations are made) exceeded the total amount of the New Source/Growth Reserve for the year, all the allocations from the reserve will be reduced on a pro-rata basis so that the total amount allocated to these new and existing units does not exceed the reserve. We stated that New Jersey should clarify that the allocation-proration provisions will be applied to new unit allocations before the October 31 deadline for NO_X annual submission, or before the July 31 deadline for the NO_X ozone season submission of new unit allocations to EPA and applied to the existing unit growth allocations

before the March 1 deadline for submission of those allocations to EPA.

New Jersey modified the proposed rule concerning allocations from the New Source/Growth Reserve so that the application of pro-rata distribution of such allocations is performed separately for new units and for existing units with growth and the process for new units is performed before new-unit allowances are allocated. EPA has determined that the modification is acceptable because it removes the potential for take back of new units' allocations.

EPA is taking final action to approve New Jersey's methodology for allocating NO_X allowances for the NO_X annual and NO_X ozone season trading programs because the methodology is consistent with the flexibility that CAIR provides states with regard to allocation methodologies.

E. Allocation of NO_X Allowances From the Compliance Supplement Pool

The Compliance Supplement Pool (CSP) provides an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a state's share of the CSP is based upon the state's share of the projected emission reductions under CAIR. The CAIR NO_X annual FIP establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in those states. EPA had allocated to New Jersey allowances equal to 660 tons of NO_X annual emissions for possible distribution.

New Jersey has chosen to modify the provisions of the CAIR NO_X annual FIP concerning the allocation of allowances from the CSP. New Jersey has chosen to retire all of the CSP allowances budgeted for New Jersey by not allocating them to CAIR units. EPA is taking final action to approve New Jersey's retirement of the CSP allowances budgeted to New Jersey since this is consistent with the flexibility provided to states under CAIR.

F. Individual Opt-In Units

The opt-in provisions allow for certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. The rules for each of the CAIR FIP trading programs include opt-in provisions that are essentially the same as those in the respective CAIR SIP model rules, except that the CAIR FIP opt-in provisions become effective in a state only if the state's abbreviated SIP revision adopts the opt-in provisions. The state may adopt the opt-in provisions entirely or may adopt them but exclude one of the allowance allocation methodologies. The state also has the option of not adopting any opt-in provisions in the abbreviated SIP revision and thereby providing for the CAIR FIP trading program to be implemented in the State without the ability for units to opt into the program.

New Jersey has chosen not to allow non-EGUs meeting the FIP specified requirements to participate in the CAIR NO_X annual trading program, the CAIR NO_X ozone season trading program, and the SO_2 trading program.

G. Satisfying Section 110(a)(2)(D)(i) of the Clean Air Act

Section 110(a)(2)(D)(i) of the CAA requires each state to submit a SIP that prohibits emissions that could adversely affect another state. The SIP must prevent sources in the state from emitting pollutants in amounts that will: (1) Contribute significantly to downwind nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

EPA issued guidance on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i). As discussed below, New Jersey's SIP revision with respect to the statutory requirements is consistent with the guidance.

New Jersey addresses the first two of these four elements by complying with the requirements of CAIR. New Jersey satisfies these requirements either by relying on the existing CAIR FIPs, or through approval of this SIP revision.

The third element New Jersey addresses is prevention of significant deterioration (PSD). In accordance with the guidance issued on August 15, 2006, states may continue to rely on their existing Nonattainment New Source Review (NNSR) and PSD permitting programs to prevent significant deterioration of air quality within their own boundaries and in adjacent states. For 8-hour ozone, the state has met the obligation by confirming that the existing ozone Nonattainment New Source Review (NNSR) permitting program remains in effect and applies to the 8-hour ozone NAAQS for the State's major stationary sources. New Jersey has noted that the State's current NNSR program retains the lower applicability levels and higher off-set ratios previously required under the states 1-hour ozone classification. EPA anticipates that the state will adopt a final attainment demonstration for the 8-hour ozone NAAQS by September 8, 2007. For $PM_{2.5}$, the State has confirmed that the state's NNSR and PSD programs are being implemented in accordance with EPA's interim guidance calling for the use of PM_{10} as a surrogate for $PM_{2.5}$. New Jersey commits to revising its NNSR program and adopting a PSD program after EPA finalizes its $PM_{2.5}$ implementation rule.

It should be noted that the entire State of New Jersey is nonattainment for 8-hour ozone, necessitating only a NNSR program (not PSD) for ozone. For $PM_{2.5}$ the State has both attainment and non-attainment areas, necessitating both NNSR and PSD programs for $PM_{2.5}$.

Consistent with EPA's August 15, 2006 guidance, at this time, it is impossible for New Jersey to accurately determine whether there is interference with measures in another state's SIP designed to protect visibility, which is the fourth element that was addressed. New Jersey has indicated that it will address the visibility protection requirements once the regional haze SIP is completed and submitted to EPA in December of 2007.

EPA is taking final action finding that the SIP revision adequately addresses the required elements of 110(a)(2)(D)(i) with the exception of the requirement to protect visibility. This requirement will be re-evaluated after the regional haze

SIP is completed and submitted to EPA in December 2007.

V. Final Action

EPA is taking final action to fully approve New Jersey's abbreviated SIP revision submitted on February 6, 2007, and subsequently revised on July 9, 2007. New Jersey is covered by the CAIR FIPs, which require participation in the EPA-administered CAIR FIP cap-and-trade for SO_2, NO_X annual, NO_X ozone season emissions. Under this abbreviated SIP revision and consistent with the flexibility given to states in the FIPs, New Jersey has adopted under N.J.A.C. 7:27–30, the CAIR NO_X Trading Program, provisions for allocating allowances under the CAIR FIP NO_X annual and ozone season trading programs. In addition, New Jersey has also adopted at N.J.A.C. 7:27–31.23 the date when New Jersey's CAIR NO_X Trading Program will replace New Jersey's NO_X Budget Trading Program (Subchapter 31). New Jersey has also adopted in the abbreviated SIP revision provisions that retire CSP allowances. As provided for in the CAIR FIPs, New Jersey provisions for allocating NO_X annual and ozone season allowances and for retiring CSP allowances, will replace or supplement the corresponding provisions of the CAIR FIPs in New Jersey. EPA has determined that New Jersey's abbreviated CAIR SIP revision meets the applicable requirements in 40 CFR 51.123(p) and (ee) with regard to NO_X annual and NO_X ozone season emissions. EPA is not making changes to the CAIR FIP, but is amending the appropriate appendices of 40 CFR part 97 in the CAIR FIP trading rules simply to note approval of New Jersey's SIP revision.

EPA is also taking final action regarding the required elements of 110(a)(2)(D)(i). EPA has determined that, with the exception of the protection of visibility requirement, that the SIP revision adequately addresses the requirements of 110(a)(2)(D)(i). This requirement will be re-evaluated after the regional haze SIP is completed and submitted to EPA in December 2007.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 97

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 18, 2007.

Alan J. Steinberg,

Regional Administrator, Region 2.

■ 40 CFR parts 52 and 97 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(83) to read as follows:

§ 52.1570 Identification of plans.

* * * * *

(c) * * *

(83) Revisions to the State Implementation Plan and submitted on February 6, 2007 as proposed, and subsequently adopted and submitted on July 9, 2007 by the State of New Jersey Department of Environmental Protection (NJDEP) that establishes rules for the allowance allocation of oxides of nitrogen (NO_X) for the annual and ozone season Clean Air Interstate Rule (CAIR) NO_X Cap and Trade Programs. The submission also establishes a date when the CAIR NO_X Trading Programs will replace the State's NO_X Budget Program, and satisfies New Jersey's 110(a)(2)(D)(i) obligations to submit a SIP revision that contains adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport.

(i) Incorporation by reference:

(A) Title 7, Chapter 27, Subchapter 30 of the New Jersey Administrative Code entitled "Clean Air Interstate Rule (CAIR) NO_X Trading Program," effective July 16, 2007 and Title 7, Chapter 27, Subchapter 31, Section 23 of the New Jersey Administrative Code entitled "NO_X Budget Program," effective July 16, 2007.

(ii) Additional information:

(A) February 2, 2007 letter from Commissioner Lisa P. Jackson, NJDEP, to Alan J. Steinberg, EPA, submitting proposed SIP revision, and request for parallel processing.

(B) June 26, 2007 letter from Commissioner Lisa P. Jackson, NJDEP, to Alan J. Steinberg, EPA, submitting SIP revision.

(C) December 29, 2006 letter from Commissioner Lisa P. Jackson, NJDEP, to Alan J. Steinberg, EPA, indicating how New Jersey has addressed the required elements of 110(a)(2)(D)(i).

■ 3. In 52.1605, the table is amended by adding an entry for Subchapter 30 and revising the entry for Subchapter 31 under the heading "Title 7, Chapter 27" to read as follows:

§ 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *			
Title 7, Chapter 27			
* * * * *			
Subchapter 30, "Clean Air Interstate Rule (CAIR) NO_X Trading Program."	July 16, 2007	October 1, 2007 [Insert FR page citation].	
Subchapter 31, "NO_X Budget Program."	July 16, 2007	October 1, 2007 [Insert FR page citation].	
* * * * *			

PART 97—[AMENDED]

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

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

■ 2. Appendix A to Subpart EE is amended by adding the entry for "New Jersey" in alphabetical order under paragraphs 1. and 2. to read as follows:

Appendix A to Subpart EE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

* * * * *

1. * * *

New Jersey

2. * * *

New Jersey

■ 3. Appendix A to Subpart EEEE is amended by adding the entry for "New Jersey" in alphabetical order under the introductory text to read as follows:

Appendix A to Subpart EEEE of Part 97—States With Approved State Implementation Plan Revisions Concerning Allocations

* * * * *

New Jersey

[FR Doc. E7–19216 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–1539–CN]

RIN 0938–AO72

Medicare Program; Hospice Wage Index for Fiscal Year 2008 Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects typographical errors that appeared in the final rule published in the August 31, 2007 **Federal Register** entitled "Medicare Program; Hospice Wage Index for Fiscal Year 2008."

DATES: *Effective Date:* These corrections are effective on October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Terri Deutsch, (410) 786–9462.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 07–4292 of August 31, 2007 (72 FR 50214), there were errors that are identified and corrected in "Section III Correction of Errors". The provisions in this correction notice are effective as if they had been included in the August 31, 2007 final rule. Accordingly, these corrections are effective October 1, 2007.

II. Summary of Errors

Table A of the Addendum lists the fiscal year (FY) 2008 urban wage index values for hospice providers by Core-Based Statistical Areas (CBSA) designations. To ensure that hospice providers are able to identify their FY 2008 wage index value, table A contains the CBSA codes, CBSA county name

(urban area), and CBSA wage index for urban geographic areas. However, for CBSA codes 29940 and 44140, on pages 50238 and 50245, respectively, we inaccurately specified the urban areas.

These errors do not represent a change in policy. In addition, these changes are consistent with the proposed rule (72 FR 24146 and 24162) and how the urban areas have been defined in the past.

III. Correction of Errors

FR Doc. 07–4292 of August 31, 2007 (72 FR 50214), make the following corrections:

1. On page 50238, in "TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA," the urban area for CBSA code 29940 is corrected to read as follows:

CBSA code	Urban area (constituent counties or county equivalents) [2]	Wage index [1]
29940	Lawrence, KS, Douglas, KS	0.8923

2. On page 50245, in "TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS BY CBSA," the urban area for CBSA code 44140 is corrected to read as follows:

CBSA code	Urban area (constituent counties or county equivalents) [2]	Wage index [1]
44140	Springfield, MA, Franklin, MA, Hampden, MA, Hampshire, MA	1.0751

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

The revisions contained in this document merely correct typographical errors in Table A of the Addendum. These corrections are necessary to ensure that the final rule accurately reflects the correct urban areas. Since these changes do not represent any policy changes, but are merely technical in nature, we find that public comments on these revisions are unnecessary. Therefore, we find good cause to waive notice and comment procedures and the 30-days delay in effective date.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 26, 2007.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 07–4851 Filed 9–28–07; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[WT Docket No. 07–54; RM–11043; FCC 07–163]

Amendment of the Commission's Rules To Modify Antenna Requirements for the 10.7–11.7 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules to allow the use of smaller antennas by Fixed Service licensees in the 10.7–11.7 GHz band. The Commission also adopts rules to ensure that the use of smaller antennas does not harm other users in the band. This action will facilitate a range of fixed microwave applications—including those that support next generation mobile services—that are not accommodated under the existing rules for the band.

DATES: *Effective Date:* October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brian Wondrack, Broadband Division, Wireless Telecommunications Bureau at (202) 418–0653 or via the Internet at *Brian.Wondrack@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* WT Docket No. 07–54, RM–11043, adopted September 7, 2007 and released September 10, 2007. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.* Alternate formats are available to persons with disabilities by e-mail @ *FCC504@fcc.gov* or by calling (202) 418–0530 or TTY (202) 418–0432.

I. Summary of the Report and Order (WT Docket No. 07–54)

1. In this *Report and Order,* in WT Docket No. 07–54, the Commission adopted amendments to 47 CFR 101.115 to permit the installation of smaller antennas by Fixed Service (FS) operators in the 10.7–11.7 GHz (11 GHz) band. The Commission also amended 47 CFR 101.115 to require any FS licensee that deploys a smaller antenna that does not comply with Category A standard in the 11 GHz band to ensure that the introduction of such an antenna into the 11 GHz band does not cause any more interference to other licensees and applicants in the band than an antenna meeting the Category A standard. The Commission found that these modifications serve the public interest by facilitating the efficient use of the 11 GHz band while protecting other users in the band from interference. Because our adoption of the subject rules permits

FS licensees to deploy smaller antennas without seeking waivers, the *Report and Order* also dismissed, as moot, pending requests for waiver to allow the use of smaller antennas in the 11 GHz band.

2. The Commission found that allowing licensees the flexibility of using smaller antennas in the 11 GHz band serves the public interest because the lower costs and enhanced benefits associated with 0.61 meter antennas will result in a more efficient use of the 11 GHz band without harming existing users. Technology has evolved since the Commission adopted the current antenna specifications for the 11 GHz band, and actions taken by the Commission in other FS and mobile bands have increased the need for greater flexibility for FS in the 11 GHz band. Antenna standards exist for the purpose of promoting the use of the most discriminating equipment to facilitate the introduction of new transmission paths. As noted in the NPRM, the Commission has reconsidered similar technical specifications that effectively limited the size of antennas used in other bands, including those used by satellite, in light of the technological evolution of communications equipment since those specifications were first adopted. Accordingly, the Commission found amending the antenna specifications in the 11 GHz band to be consistent with actions taken in other bands, including the 10 GHz band.

3. The Commission rejected the contentions by some commenting parties that proponents of the rule change have failed to demonstrate that there is a need for additional FS operations in the 11 GHz band and that harmful interference can be avoided. The Commission found that commenting parties presented a strong record demonstrating that the proposed rule would afford FS users the flexibility necessary to more fully and efficiently utilize the 11 GHz band by deploying 0.61 meter antennas, thereby facilitating a range of fixed microwave applications, including backhaul and more innovative and emerging wireless services. The FS has a special need for flexibility in the use of their spectrum because the Commission has reallocated FS spectrum to other services in recent years and because the new spectrum available to FS is most suitable for short-range applications.

4. The Commission also rejected, as unfounded, the suggestion that the use of smaller antennas would limit the availability of 11 GHz spectrum in rural areas. No evidence was introduced to support such a contention in this proceeding. The Commission anticipated that most small antennas will be used for shorter links in urban or suburban areas. However, the Commission also noted that it is not in the public interest to make less efficient use of the spectrum solely for the convenience of one licensee.

5. The 11 GHz band is allocated within the United States on a co-primary basis to FS and Fixed Satellite Service (FSS). In this *Report and Order*, the Commission rejected the proposal by Intelsat, Ltd. to segment the 11 GHz band by allocating 500 megahertz of spectrum to FS and 500 megahertz of spectrum to the FSS. The Commission found that the proposal exceeds the scope of this proceeding. The Commission also found that there is no record to support such an action in this proceeding. The Commission noted that the band segmentation proposal was a radically different solution for avoiding interference between FS and FSS operators and has been offered at the comment stage in this proceeding without any study of its implications. Furthermore, the domestic use of the 11 GHz band by the FSS has been limited, to date, because it has sought to protect the use and expansion of terrestrial microwave services within the band. The Commission emphasized in the *Report and Order* that its rules explicitly limit satellite use of the 11 GHz band to international systems. Under those circumstances, the *Report and Order* found no support for denying FS operators access to half of the 11 GHz band. The Commission has designated the 11 GHz band as one of the relocation bands for emerging technologies.

6. In the *Report and Order*, the Commission adopted modifications to the antenna standards for FS operation in the 11 GHz band. The Commission rejected FiberTower's proposal to have two different Category A and Category B standards. Instead, the Commission revised the Category B standard and treated all antennas that do not comply with the Category A standard as Category B antennas. The Commission also adopted a special provision allowing the use of 11 GHz Category B antennas in all areas, as opposed the normal restriction limiting Category B antennas to rural areas. The Commission also rejected a proposal to impose an EIRP limitation on facilities using Category B antennas. Although the Commission generally agreed that larger antennas will be more appropriate for longer links, it found that there may be situations where an operator has no alternative to using a smaller antenna for a longer link.

7. The Commission generally concluded that allowing smaller antennas in the 11 GHz band will not harm existing users. An applicant proposing the use of a smaller antenna will need to coordinate its proposed facilities with existing users. Moreover, the record contained specific analyses submitted by proponents of the rule changes indicating that the use of smaller FS antennas in the 11 GHz band is not likely to cause significantly more interference than current antennas. Although the Commission specifically sought comment on the Alcatel *White Paper* in the *NPRM*, none of the opponents of allowing smaller antennas in the 11 GHz band addressed the *White Paper* or attempted to rebut its showings. In addition, the Commission further noted that none of the opponents offered any engineering analysis to show that there would be any material risk of increased interference.

8. The Commission rejected arguments by Intelsat, Ltd. that the Commission should prohibit the use of smaller antennas in the 11 GHz band because other users in the band will experience harmful interference due to the aggregate effect of several nearby FS antennas. The Commission emphasized that no opponent of the rule changes provided any engineering analysis or other evidence to support their contentions. Moreover, the Commission found that the existing coordination procedures, such as the right of existing users to raise objections in the coordination process and the practice of using different frequency channels, should be sufficient to protect existing FS and FSS operators. The Commission noted that the primary concern of opponents appears to be that allowing the use of smaller antennas in the 11 GHz band would result in increased FS use of the band and increase the possibility that aggregate interference would occur. However, the Commission emphasized that it has limited the expansion of FSS in the 11 GHz band in order protect the future use of the band for FS. Accordingly, the Commission viewed rule changes that would allow greater FS use of the 11 GHz band as beneficial to the public interest, so long as existing users would not be harmed.

9. In the *Report and Order*, the Commission noted that Mobile Satellite Ventures, L.P. (MSV) and Terrestar Networks, Inc. (Terrestar) identified a more specific concern about the effect of aggregate interference on its next generation, geostationary orbit (GSO) Mobile Satellite Service (MSS) gateway earth stations authorized for feeder link operations in the 11 GHz band. The

Commission stated that it expected all FS applicants for new or modified facilities in the 11 GHz band to carefully coordinate their operations with the authorized feeder link operations of any licensed GSO MSS gateway earth station in the 11 GHz band so as to avoid harmful aggregate interference. Specifically, the Commission expects FS applicants to consider the possibility of aggregate interference in determining whether they must coordinate with the authorized feeder link operations of any licensed GSO MSS gateway earth station in the 11 GHz band. If an MSS licensee raises aggregate interference concerns in the coordination process, the Commission stated that the licensee and the FS applicant must work to resolve those concerns in the coordination process. If issues relating to aggregate interference are brought to the Commission's attention, either in a statement submitted with an application or in a timely petition, the Commission will carefully consider such issues.

10. The Commission rejects the unsupported contention that errors in correctly pointing antennas will occur more frequently with smaller antennas and thereby cause greater interference to other users in the band. FS licensees and equipment manufacturers demonstrated that they have a strong incentive to accurately point their antennas and routinely point antennas to a high degree of accuracy. The record demonstrated that there is no significant difference between antennas currently authorized under the Commission's Rules and smaller antennas in terms of the likelihood of pointing error. Furthermore, the parties stated that they would work quickly to correct any pointing errors that do occur, and the Commission expects all licensees to promptly remedy any errors that do exist.

11. The Commission adopted a rule that in those instances where a FS licensee deploys a smaller, Category B compliant antenna in the 11 GHz band, the FS licensee must modify the use of such antenna if another FS or FSS licensee or applicant in the 11 GHz band makes a showing (i) that it is likely to receive interference due to the use of the smaller, Category B compliant antenna and (ii) that such interference would not exist if the FS station were using a Category A compliant antenna instead. In response to such a showing, the FS licensee that had opted to deploy a smaller, Category B compliant antenna must either replace its antenna with a Category A complaint antenna or appropriately reduce EIRP. That rule will place other applicants and licensees in the 11 GHz band—whether FS or FSS—in a position no worse than if an FS licensee were using a Category A compliant antenna. The Commission rejected a proposal to place language in the rule referencing the on-axis EIRP of the station in question as unnecessary and unduly restrictive. The Commission believes that FS licensees using smaller antennas should have the flexibility to adjust their EIRP in order to resolve interference concerns, so long as FS and FSS applicants are no worse off than they were if the licensee was using an antenna meeting Category A standards.

12. The Commission also adopted a rule stating that a FS licensee that opts to deploy a Category B compliant antenna in the 11 GHz band may only object to a prior coordination notice based on interference if the predicted interference would not otherwise exist if the FS licensee were using a Category A compliant antenna instead of a Category B compliant antenna. The Commission found that the adoption of these rules serves the public interest by appropriately balancing the rights of all interested parties in the 11 GHz band, promoting the efficient use of the spectrum, and protecting the rights of existing and future users of the band.

13. The Commission also declined to establish a deadline for the resolution of interference complaints involving FS interference to FSS earth stations. The Commission has not mandated a specific deadline for resolving interference complaints in other point-to-point microwave bands, and the 11 GHz band does not have any unique characteristics that would justify a special rule for that band. In addition, proponents of the proposal failed to demonstrate that our existing rules are inadequate or that FS licensees are unwilling to resolve interference issues as they occur.

14. Nextlink Wireless, Inc., First Avenue Networks, Inc., Telecom Transport Management, Inc., and Conterra Ultra Broadband, LLC had filed waiver requests seeking permission to use smaller antennas in the 11 GHz band. The Commission dismissed the pending waiver requests as moot. The rules adopted in this *Report and Order* will provide the parties seeking a waiver with the opportunity to use smaller antennas in the 11 GHz band. The Commission granted FiberTower a waiver to permit it to deploy smaller antennas in the 11 GHz band subject to a condition that it must comply with the outcome of this rulemaking proceeding. The Commission will terminate the waiver granted to FiberTower on the date the rules adopted herein become effective.

II. Final Regulatory Flexibility Analysis

15. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), we incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rule Making* (*NPRM*) in WT Docket 07–54. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. Because we amend the rules in this *Report and Order*, we have included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

A. Need for, and Objectives of, This Report and Order

16. In this *Report and Order*, we adopt amendments to Section 101.115 of the Commission's rules to permit the installation of smaller antennas by Fixed Service (FS) operators in the 10.7—11.7 GHz (11 GHz) band. Section 101.115(b) of the Commission's rules establishes directional antenna standards designed to maximize the use of microwave spectrum, including the 11 GHz band, while avoiding interference between operators. More specifically, the Commission's rules set forth certain requirements, specifications, and conditions pursuant to which FS stations may use antennas that comply with either the more stringent performance standard in Category A (also known as Standard A) or the less stringent performance standard in Category B (also known as Standard B). The rule on its face does not mandate a specific size of antenna. Rather, it specifies certain technical parameters—maximum beamwidth, minimum antenna gain, and minimum radiation suppression—that, depending on the state of technology at any point in time, directly affect the size of a compliant antenna that may be deployed in the 11 GHz band. The Commission found a demonstrated need in this proceeding to reconsider and to modify the antenna standards set forth in Section 101.115 of the Commission's rules because actions taken by the Commission in other bands have increased the need for greater flexibility for FS in the 11 GHz band; because technology has significantly evolved since the Commission last considered the antenna specifications for the 11 GHz band; and because the Commission has reconsidered similar technical specifications that effectively limited the size of antennas used in other bands, including those used by satellite, in

light of the technological evolution of communications equipment since those specifications were first adopted.

17. In this *Report and Order*, we adopt amendments to Section 101.115 of the Commission's rules to revise the Category B standards for the 11 GHz band to permit, as proposed in the *NPRM*, the use of FS antennas with reduced mainbeam gain, increased beamwidth, and modified sidelobe suppression. We conclude in this *Report and Order* that, by treating smaller antennas that do not comply with Category A standard as Category B antennas, the amended rules will afford licensees maximum flexibility in deploying FS antennas in the 11 GHz band. While licensees in the FS will now have additional options to deploy smaller antennas in the 11 GHz band that comply with the revised Category B standard, FS licensees also retain the discretion to maintain and continue to deploy Category A compliant antennas in the band. In this *Report and Order*, we also amend Section 101.115 of the Commission's rules to impose a duty on any FS licensee that deploys a smaller antenna in the 11 GHz band that does not comply with the Category A standard to ensure that the introduction of such antennas does not cause harmful interference to other licensees and applicants in the band. We find that the amendments we adopt in this *Report and Order* further the public interest and promote our goals of facilitating the efficient use of the 11 GHz band while also protecting other users in the band from interference.

B. Summary of Significant Issues Raised by Public Comments in Response to the NPRM

18. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

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

19. 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 SBA.

20. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

21. Fixed Microwave Services. Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 36,708 common carrier fixed licensees and 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of the FRFA, we will use the SBA's definition applicable to Cellular and other Wireless Telecommunications companies—i.e., an entity with no more than 1,500 persons. Census Bureau data for 2002 show that there were 1,397 firms in this category 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, under this size standard, the majority of firms can be considered small. We note that the number of firms does not necessarily track the number of licensees. We estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

22. Satellite Telecommunications and Other Telecommunications. There is no small business size standard developed specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of "Satellite Telecommunications" and "Other Telecommunications." Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.

23. The first category of Satellite Telecommunications "comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

24. The second category of Other Telecommunications "comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems." For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

25. Space Stations (Geostationary). Commission records reveal that there are 15 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition cited above, or apply any rules providing special consideration for Space Station (Geostationary) licensees that are small businesses.

26. Fixed Satellite Transmit/Receive Earth Stations. Currently there are approximately 3,390 operational fixed-satellite transmit/receive earth stations authorized for use in the C- and Ku-bands. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of earth stations

that would constitute a small business under the SBA definition.

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

27. This *Report and Order* adopts no new reporting or recordkeeping requirements. This *Report and Order* adopts amendments to Part 101 of the Commission's rules to afford FS licensees in the 11 GHz band with the flexibility to deploy smaller antennas that comply with the less stringent Category B standard or to maintain as well as continue to deploy antennas that comply with the more stringent Category A standard. The proposed amendments would apply equally to large and small entities and benefit all FS licensees by reducing the burden of seeking individual waivers to permit the use of smaller antennas in the 11 GHz band.

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

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed 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 or reporting requirements under the rule for 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 small entities.

29. In this *Report and Order*, we adopt amendments to Section 101.115 of the Commission's Rules to revise the Category B standard for the 11 GHz band to permit, as proposed in the NPRM, the use of FS antennas with reduced mainbeam gain, increased beamwidth, and modified sidelobe suppression. Licensees in the FS will now have additional options to deploy smaller antennas in the 11 GHz band that comply with the revised Category B standard while retaining the discretion to maintain and continue to deploy antennas that comply with the more stringent Category A standard, which has not been modified in this *Report and Order*. Smaller antennas that comply with the revised Category B standard cost less to acquire, deploy, and maintain, thereby reducing the expenditure of capital and human resources otherwise necessary to deploy and maintain Category A compliant antennas. We conclude in this *Report and Order* that our action serves the public interest by facilitating the efficient use of the 11 GHz band. The deployment of smaller antennas that comply with the revised Category B standard could promote a wide range of fixed microwave applications that are not currently being provided for in the 11 GHz band for financial, aesthetic, and regulatory reasons. In addition, a number of the commenting parties in this proceeding identify themselves as small business entities and express their need to deploy smaller antennas in the 11GHz band in order to open up economic opportunities and to provide for a wide range of services, including, for example, the provision of backhaul services.

30. *Report to Congress:* The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and the FRFA (or summaries thereof) will also be published in the **Federal Register**.

III. Procedural Matters

31. *Paperwork Reduction Analysis:* This document contains no new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104.13.

32. *Congressional Review Act:* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801 (a)(1)(A).

IV. Ordering Clauses

33. Pursuant to Sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333 and 706 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333, and 706, that this *Report and Order* is adopted.

34. Pursuant to Section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and Section 1.925 of the Commission's rules, that the Petition for Waiver filed by Nextlink Wireless, Inc. on August 4, 2006, the Petition for Waiver filed by First Avenue Networks, Inc. on August 10, 2006, the Petition for Waiver and Expedited Action filed by Telecom Transport Management, Inc. on September 8, 2006, and the Petition for Expedited Waiver Pending Rulemaking filed by Conterra Ultra Broadband, LLC on January 22, 2007 are dismissed as moot.

35. Pursuant to Section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and Section 1.925 of the Commission's rules, that the waiver granted to FiberTower Corporation in FiberTower, Inc., *Order*, 21 FCC Rcd 6386 (WTB 2006) is terminated on the date the rules adopted in this *Report and Order* become effective, with facilities authorized pursuant to the waiver being grandfathered.

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

List of Subjects in 47 CFR Part 101

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 101 as follows:

PART 101—FIXED MICROWAVE SERVICES

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

■ 2. Section 101.115 is amended by revising the entry for "10,700 to 11,700" [5] in the table following paragraph (b)(2), redesignating paragraph (f) as paragraph (g), and adding a new paragraph (f) to read as follows:

§ 101.115 Directional antennas.

(b) * * *

(2) * * *

Frequency (MHz)	Category	Maximum beam-width to 3 dB pts	Minimum antenna Gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
*	*	*	*	*	*	*	*	*	*	
10,700–11,700 [5]	A	2.2	38	25	29	33	36	42	55	55
	B	3.5	33.5	17	24	28	32	35	40	45
*	*	*	*	*	*	*	*	*	*	

* * * * *

(f) In the 10,700–11,700 MHz band, a fixed station may employ transmitting and receiving antennas meeting performance standard B in any area. If a Fixed Service or Fixed Satellite Service licensee or applicant makes a showing that it is likely to receive interference from such fixed station and that such interference would not exist if the fixed station used an antenna meeting performance standard A, the fixed station licensee must modify its use. Specifically, the fixed station licensee must either substitute an antenna meeting performance standard A or operate its system with an EIRP reduced so as not to radiate, in the direction of the other licensee, an EIRP in excess of that which would be radiated by a station using a Category A antenna and operating with the maximum EIRP allowed by the rules. A licensee or prior applicant using an antenna that does not meet performance Standard A may object to a prior coordination notice based on interference only if such interference would be predicted to exist if the licensee or prior applicant used an antenna meeting performance standard A.

[FR Doc. E7–19342 Filed 9–28–07; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 105, 106, 107, 110, 130, 171, 172, 173, 174, 175, 176, 178, 179 and 180

[Docket No. PHMSA–2007–29245 (HM–244)]

RIN 2137–AE30

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes that do not impose new requirements.

DATES: *Effective date:* October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Dirk Der Kinderen, Office of Hazardous Materials Standards, (202) 366–8553, PHMSA, East Building, PHH–10, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA annually reviews the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to identify typographical and other errors, outdated addresses or other contact information, and similar errors. In this final rule, we are correcting typographical errors; incorrect CFR references and citations; inaccurate office names; inconsistent use of terminology; misstatements of certain regulatory requirements; and inadvertent omissions of information. In addition, this final rule revises the address for PHMSA to indicate the new location for the headquarters office.

Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next revision of Title 49.

The following is a summary by section of the major changes made in this final rule. The summary does not include minor editorial corrections such as punctuation errors, or similar minor revisions.

II. Section-by-Section Review

Part 107

Section 107.608

This section contains general requirements for registration. In paragraph (a), we are removing the reference to § 107.616(d) for consistency with revisions made in HM–208F (72 FR 24536; May 3, 2007). The HM–208F final rule removed paragraph (d) of § 107.616.

Part 171

Section 171.6

This section lists approved collections of information required under the HMR. In the table in paragraph (b)(2), in the third column for OMB control number 2137–0557, we are removing the reference citations to §§ 178.270–3 and 178.270–13. Section 178.270–3 was removed in an earlier rulemaking, and we are removing § 178.270–13, which addresses testing requirements for IM 101 and 102 specification portable tanks in this final rule. As prescribed in § 173.32(c)(2), the manufacture of these portable tanks is no longer authorized.

Section 171.7

This section lists material incorporated by reference into the HMR. In paragraph (a)(3), in the second column of the table of material incorporated by reference, for the entry ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX, we are removing the reference citations, §§ 178.270–2 through 178.272–1, which contain requirements applicable to the manufacture of IM 101 and 102 portable tanks, because the manufacture of these portable tanks is no longer authorized. Additionally, we are updating a reference citation for the use of the UN Recommendations.

Section 171.8

This section lists definitions for terms used in the HMR. In the definition for "Administrator," we are correcting the office name "Research and Special Programs Administration" to read "Pipeline and Hazardous Materials Safety Administration." In the

definition for "Shipping paper," we are removing the references to "§§ 172.202, 172.203 and 172.204" to clarify that shipping papers must be prepared in accordance with the requirements in subpart C of part 172.

Section 171.14

This section provides transitional provisions for recently adopted regulatory changes. In paragraph (d)(6), we are correcting the citation "172.202(a)(6)" to read "172.202(a)(7)" for consistency with revisions made to § 173.202(a) in a final rule published under docket number HM–215I (71 FR 78596; December 29, 2006).

Section 171.15

This section contains telephonic notification requirements for certain hazardous materials transportation incidents. In paragraph (b)(3), we are correcting the telephone report requirements for infectious substances by removing the term "diagnostic specimen" since that term no longer appears in the HMR.

Section 171.23

This section contains requirements for specific materials and packages transported under the international standards. In paragraph (b)(5), we are correcting requirements by removing an inaccurate exception for Class 7 (radioactive) materials included in a final rule published under docket number HM–215F (72 FR 25162; May 3, 2007).

Part 172

Section 172.101—The Hazardous Materials Table (HMT)

We are removing the entries "*Helium-oxygen mixture, see* Rare gases and oxygen mixtures," "*Nitrogen, mixtures with rare gases, see* Rare gases and nitrogen mixtures," and "*Oxygen, mixtures with rare gases, see* Rare gases and oxygen mixtures." These entries are being removed for consistency with revisions made in the final rule published under docket number HM–215I.

We are correcting entries in the HMT as follows:

- For the entries "Ammonia, anhydrous," Division 2.3, UN1005, "Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia,*" Division 2.3, UN3318, and "Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia,*" UN2073, we are correcting Column (7) by adding "N87." Special provision "N87" was inadvertently omitted. This correction appears as a "Remove/Add" in this rulemaking.
- For the entry "Articles, explosive, n.o.s.," UN0353, in Column (6), we are correcting the label code "1.4GD" to read "1.4G."
- For the entry "Articles, explosive, n.o.s.," UN0467I, in Column (4), we are correcting the identification number to read "UN0467" and in Column (5), we are correcting the packing group to read "II." This correction appears as a "Remove/Add" in this rulemaking.
- For the entry "Caesium hydroxide solution," UN2681, PG III, in Column (8B), we are correcting the section reference to read "203."
- For the entry "Contrivances, water-activated, *with burster, expelling charge or propelling charge,*" UN0248, we are correcting Column (1) by adding "G." Symbol "G" was inadvertently omitted.
- For the entry "Contrivances, water-activated, *with burster, expelling charge or propelling charge,*" UN0249, we are correcting Column (1) by adding "G." Symbol "G" was inadvertently omitted.
- For the entry "Hydrazine, aqueous solution, *with more than 37% hydrazine, by mass,*" UN2030, PG III, in Column (8A), we are correcting the section reference to read "154."
- For the entry "Hydrogendifluorides, solid, n.o.s.," UN1740, PG II and III, the proper shipping name is corrected to the singular form to read "Hydrogendifluoride, solid, n.o.s." This correction appears as a "Remove/Add" in this rulemaking.
- For the entry "Hydrogen peroxide, aqueous solutions *with more than 40 percent but not more than 60 percent hydrogen peroxide (stabilized as necessary,)*" UN2014, we are correcting Column (7) by adding "A60." Special provision "A60" was inadvertently omitted.
- For the entry "Hydrogen peroxide, aqueous solutions *with not less than 8 percent but less than 20 percent hydrogen peroxide (stabilized as necessary,)*" UN2984, in Column (8C), we are correcting the section reference to read "241."
- For the entry "Nitrocellulose, *with not more than 12.6 percent nitrogen, by dry mass, or* Nitrocellulose mixture with pigment *or* Nitrocellulose mixture with plasticizer *or* Nitrocellulose mixture with pigment and plasticizer," UN2557, we are revising the proper shipping name in column (2) to read "Nitrocellulose, *with not more than 12.6 percent, by dry mass* mixture with *or* without plasticizer, with or without pigment." This revision is being made for consistency with the description for UN2557 in the UN Recommendations, and appears as a "Remove/Add" in this rulemaking.
- For the entry "4-Nitrophenylhydrazine, *with not less than 30% water, by mass,*" UN3376, in Column (7) we are correcting Special provision "164" to read "162." Special provision "164" was inadvertently assigned in place of "162." This correction appears as a "Remove/Add" in this rulemaking.
- For the entry "Organoarsenic compound, liquid, n.o.s.," UN3280, PG I, II, and III, the information in the columns associated with PG I is corrected by aligning the hazardous material information with the appropriate columns. This correction appears as a "Remove/Add" in this rulemaking.
- For the entry "Paint or Paint related materials," UN3066, PG II and III, the proper shipping name is corrected to the singular form to read "Paint or Paint related material." This correction appears as a "Remove/Add" in this rulemaking.

Section 172.202

Section 172.202 contains requirements for shipping descriptions on shipping papers. In paragraph (a)(6)(vi), we are correcting the wording "except for UN2800, UN3072, and UN3166" to read "except for UN2800, UN2807, UN3072, UN3166 and UN3171" for consistency with the preamble discussion to § 172.202(a) in the final rule published under docket number HM–215I.

Section 172.302

This section establishes general marking requirements for bulk packaging. In paragraph (f), we are revising the last sentence to clarify the example illustrating a circumstance for which a bulk packaging need not be remarked to conform to revisions made in the shipping name of the material it contains.

Section 172.303

This section addresses prohibited marking. In paragraph (a), we are adding the clarifying language "or any other markings indicating that the material is hazardous (e.g., RQ, INHALATION HAZARD)" for consistency with the language used elsewhere in the HMR.

Section 172.505

This section sets forth requirements for placarding for subsidiary hazards. In paragraph (a), we are correcting the reference "§ 172.203(m)(2)" to read "§ 172.203(m)." Paragraphs (m)(1) and (m)(2) were combined into a single paragraph (m) in a final rule published

under docket number HM–189Y (70 FR 56804; September 23, 2005).

Part 173

Section 173.6

This section establishes exceptions from certain HMR requirements for materials of trade. In paragraph (a)(4), we are correcting the word "movement" to read "shifting" for consistency with the language used in paragraphs (b)(1) and (b)(3).

Section 173.22

This section sets forth general shipper responsibilities. In paragraph (c)(2), we are removing the acronym "PHMSA" following the wording "Associate Administrator," because it is unnecessary. Section 171.8 defines the term "Associate Administrator" to mean the Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

Section 173.31

This section establishes requirements for the use of railroad tank cars. Paragraph (g) of this section addresses tank car loading and unloading requirements. In paragraph (g)(1), we are revising the wording "unloader" to read "each hazmat employee who is responsible for loading or unloading" to clarify that the requirements of this section apply to both loading and unloading operations. In addition, we are correcting the wording "blocked" to read "locked." In paragraph (g)(2), we are revising the language regarding the design and display of caution signs for consistency with the language used in § 174.67(a)(4).

Section 173.132

This section contains classification criteria for Division 6.1 materials. In the HM–215I final rule, we revised the toxicity criteria for Division 6.1 materials in § 173.133 to be consistent with the toxicity criteria adopted in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). However, the Division 6.1 definition in § 173.132(a) was overlooked. Therefore, in paragraph (a), we are revising the definition of oral toxicity and inhalation toxicity to be consistent with our earlier amendments to § 173.133. Also, in paragraph (a)(1)(iii)(B), we are correcting the measurement unit "mL/mm^3" to read "mL/m^3."

Section 173.134

This section contains classification criteria and establishes exceptions from certain HMR requirements for Division 6.2 materials. In paragraph (a)(8), we are correcting the wording "diagnostic specimen" to read "patient specimen" for consistency with changes made in a final rule published under docket number HM–226A (71 FR 32244; July 6, 2006).

Sections 173.150, 173.151, 173.152, and 173.154

These sections establish exceptions from certain HMR requirements for Class 3, Class 4, Division 5.1, Division 5.2, and Class 8 materials. We are revising the limited quantity provisions in each of these sections to clarify that the labeling exception is not granted to materials with a Division 6.1 subsidiary hazard. The amendments disallowing the labeling exception for limited quantities of Division 6.1 materials were included in a final rule under docket number HM–215G (69 FR 76044; December 20, 2004), but were inadvertently omitted when these provisions were revised under HM–228 (71 FR 14586; March 22, 2006).

Additionally, in § 173.150(d)(2) pertaining to the carriage of alcoholic beverages as checked or carry-on baggage, we are correcting the reference "175.10(a)(17)" to read "§ 175.10(a)(4)."

Section 173.199

This section establishes packaging requirements for Category B infectious substances. In paragraph (a) introductory text, we are correcting an obsolete section reference.

Section 173.225

This section sets forth packaging requirements for organic peroxides. In paragraph (c), we are removing "≥" from Note 17 of the Organic Peroxide Table and adding "≤" to correct a typographical error.

Section 173.244

This section sets forth bulk packaging requirements for certain Division 4.2, 4.3, and 6.1 materials. We are adding a sentence to the end of paragraph (c) to clarify DOT 51 and UN portable tanks used to transport Division 6.1 liquids, Hazard Zone A or B, must be certified and stamped to the ASME Code as prescribed in § 178.273(b)(6).

Section 173.411

This section establishes requirements for industrial packaging used to transport Class 7 materials. In paragraph (b)(5), we are removing the section citations to §§ 178.270, 178.271, and 178.272 because the manufacture of portable tanks to the IM 101 and 102 specifications is no longer authorized.

Part 174

Section 174.67

Section 174.67 prescribes procedures for conducting transloading operations involving railroad tank cars. In paragraphs (a)(2), (a)(3), and (a)(4), we are revising the wording "the unloader" to read "each hazmat employee who is responsible for unloading" for clarity. Also, in a final rule published under docket number HM–223 (68 FR 61941; October 30, 2003), we redesignated paragraph (a)(4) containing precautions when venting a tank car as paragraph (a)(6) but failed to include the newly redesignated paragraph in the regulatory text. Paragraph (a)(6) is added in this final rule.

Part 175

Section 175.8

This section contains exceptions from certain HMR requirements for operator equipment and replacement items transported by aircraft. In paragraph (a)(3)(ii), we are correcting the reference "§ 175.75(a)" to read "§ 175.75(c)".

Section 175.75

This section establishes cargo limitation and stowage requirements for hazardous materials transported by aircraft. At the end of paragraph (e)(3), we are removing the word "and" and adding a period. The requirements in paragraphs (e)(3) and (e)(4) are stand-alone requirements. Paragraph (e)(3), which outlines conditions for hazardous materials transported on board a cargo aircraft, includes a requirement for written approval by FAA. Paragraph (e)(4), which outlines conditions for hazardous materials transported on board a small, single pilot, cargo aircraft, does not include a requirement for FAA approval.

Also, in paragraph (e)(5), we are revising the "Quantity and Loading Tables" to correct the formatting errors.

Part 176

Section 176.83

We are reprinting the "Segregation of Cargo Transport Units on Board Hatchless Container Ships" table in § 176.83(l) to correct formatting errors.

Part 178

Sections 178.270–12, 178.270–13, and 178.270–14

These sections establish requirements for IM 101 and 102 portable tanks. Most sections applicable to these portable tanks were removed from the HMR in a final rule under docket number HM–189Z (71 FR 54388; September 14, 2006) because the manufacture of IM portable

tanks is no longer authorized. These sections were inadvertently not omitted from that final rule.

Section 178.273

This section sets forth requirements for approval of specification IM portable tanks and UN portable tanks. We are revising the section title and paragraph (e)(1) to remove references to the IM portable tanks because manufacture of those tanks is no longer authorized. Also, in paragraph (b)(7)(ii), we are removing the wording "§ 178.270–14 of this subchapter for IM portable tanks, § 178.245–6 for Specification 51 steel portable tanks, or".

Section 178.274

This section contains specifications for UN portable tanks. We are revising paragraph (b)(1) to clarify that portable tanks used for Zone A or B toxic by inhalation liquids are required to have an ASME certification and U stamp as prescribed in § 178.273(b)(6).

Section 178.348–4

This section specifies pressure relief requirements for DOT 412 cargo tanks. In paragraph (d)(3), we are removing a reference to a formula in obsolete § 178.270–11(d)(3) and inserting the formula, expressed in nonmetric units, that had been contained in the referenced section. Section 178.270–11 was removed in a final rule under docket number HM–189Z.

Section 178.606

This section establishes requirements for performing the stacking test to ensure that non-bulk packagings conform to the performance standard established in the HMR. In paragraph (c)(2)(ii), in the stacking test requirements for a packaging intended for solids, we are correcting the formula to include a constant of 2.2 (lbs/kg) to convert the units on the right side of the formula to pounds for consistency with the units of variable "A" in the formula. In addition, we are including explanations of the multipliers "2.2" and ".98" in the formula for liquids.

Part 179

Section 179.300–19

This section addresses inspection requirements for newly constructed rail tank cars. In paragraph (a), we are revising the wording "acceptable to the Bureau of Explosives" to read "as approved by the Associate Administrator for Safety, FRA." These approvals are no longer handled by the Bureau of Explosives.

Part 180

Section 180.209

This section establishes requalification requirements for cylinders. In the table in paragraph (i)(1), we are correcting "3 to 20 years" to read "5 to 20 years" for the initial porous filler requalification of acetylene cylinders manufactured on or after January 1, 1991. The change from 3 years to 5 years, adopted in a final rule published under docket number HM 218B, is correctly stated in footnote 2 following the table.

Section 180.212

This section specifies requirements for repair of seamless DOT specification and UN cylinders. In paragraph (b)(2), we are revising the wording to clarify that rethreading of cylinders may be performed by a manufacturer of the type of cylinder being rethreaded instead of limiting the work to the original manufacturer, who may no longer be in business. This revised wording is consistent with the wording used in paragraph (b)(1).

Section 180.215

This section establishes reporting and record-retention requirements related to the qualification, maintenance, and use of cylinders. We are correcting paragraph (b) by adding the words ", if present" after "manufacturer's name or symbol" to alleviate confusion by cylinder requalifiers.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule does not impose new or revised requirements for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; or (2) imposes substantial direct compliance costs on State and local governments. PHMSA is not aware of any State, local or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

D. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

G. Environmental Impact Analysis

There are no environmental impacts associated with this final rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the

heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 105

Administrative practice and procedure, Hazardous materials transportation.

49 CFR Part 106

Administrative practice and procedure, Hazardous materials transportation.

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 110

Disaster assistance, Education, Grants program-environmental protection, Grants program-Indians, Hazardous materials transportation, Hazardous substances, Indians, Reporting and recordkeeping requirements.

49 CFR Part 130

Oil pollution, Packaging and containers, Reporting and recordkeeping requirements, Transportation.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Incorporated by reference, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Rail carriers, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 105—HAZARDOUS MATERIALS PROGRAM DEFINITIONS AND GENERAL PROCEDURES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 49 CFR 1.53.

§§ 105.20, 105.25, and 105.40 [Amended]

■ 2. In part 105, remove the wording "400 7th Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 105.20(a)(4);
■ b. Section 105.20(b)(3);
■ c. Section 105.25(b)(4); and
■ d. Section 105.40(d).
■ 3. In § 105.25, paragraph (a) introductory text and paragraph (b)(2)(iv) are revised to read as follows:

§ 105.25 Reviewing public documents.

* * * * *

(a) *DOT Docket Management System.* Unless a particular document says otherwise, the following documents are available for public review and copying at the Department of Transportation's Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, or for review and downloading through the Internet at *http://www.regulations.gov.*

* * * * *

(b) * * *

(2) * * *

(iv) Applications for special permits numbered below DOT–E or DOT–SP 11832 and related background information are available for public review and copying at the Office of Hazardous Materials Safety, Office of Hazardous Materials Special Permits and Approvals, U.S. Department of Transportation, PHH–30, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

* * * * *

■ 4. In § 105.35, paragraph (b)(3)(ii) is revised to read as follows:

§ 105.35 Serving documents in PHMSA proceedings.

* * * * *

(b) * * *

(3) * * *

(ii) Serve documents electronically through the Internet at *http://www.regulations.gov.*

PART 106—RULEMAKING PROCEDURES

■ 5. The authority citation for part 106 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 49 CFR 1.53.

§§ 106.75, 106.85, and 106.125 [Amended]

■ 6. In part 106, remove the wording "Room PL 401, 400 7th Street, SW." and add in its place "West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 106.75(d);
■ b. Section 106.85(a); and
■ c. Section 106.125.
■ 7. In § 106.45, paragraph (a)(2)(i) and (a)(2)(ii) are revised to read as follows:

§ 106.45 Tracking rulemaking actions.

* * * * *

(a) * * *

(2) * * *

(i) Visit the public docket room and review and copy any docketed materials during regular business hours. The DOT Docket Management System is located at the U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(ii) View and download docketed materials through the Internet at *http://www.regulations.gov.*

* * * * *

■ 8. In § 106.70, paragraph (a)(1) and (a)(2) are revised to read as follows:

§ 106.70 Where and when to file comments.

(a) * * *

(1) By mail to: Docket Management System, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(2) Through the Internet at *http://www.regulations.gov.*

* * * * *

§ 106.95 [Amended]

■ 9. In § 106.95, in paragraphs (a) and (b), remove the wording "400 7th Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE." in each place it appears.

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 10. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

§§ 107.105, 107.107, 107.109, and 107.705 [Amended]

■ 11. In part 107, remove the wording "400 7th Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 107.105(a)(1);
■ b. Section 107.107(b)(1);
■ c. Section 107.109(a)(1); and
■ d. Section 107.705(a)(1).

§§ 107.325 and 107.402 [Amended]

■ 12. In part 107, remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 107.325(a) and (b); and
■ b. Section 107.402(a).

§§ 107.203 and 107.215 [Amended]

■ 13. In part 107, remove the wording "400 7th Street, SW., Suite 8417" and add in its place "East Building, PHC–1, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 107.203(b)(1)(i); and
■ b. Section 107.215(b)(1)(i).

§ 107.127 [Amended]

■ 14. In § 107.127, in paragraph (a), remove the wording "400 7th Street, SW., Washington, DC 20590–0001, Room 8102" and add in its place "East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001" and remove the wording "*http://dms.dot.gov.*" and add in its place "*http://www.regulations.gov.*".

§ 107.502 [Amended]

■ 15. In § 107.502, in paragraph (d), remove the wording "Room 8310, 400 7th Street, SW" and add in its place "West Building, MC–ECH, 1200 New Jersey Avenue, SE.".

■ 16. In § 107.608, paragraph (a) is revised to read as follows:

§ 107.608 General registration requirements.

(a) Each person subject to this subpart must submit a complete and accurate registration statement on DOT Form F 5800.2 not later than June 30 for each registration year, or in time to comply with paragraph (b) of this section, whichever is later. Each registration year begins on July 1 and ends on June 30 of the following year.

* * * * *

PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

■ 17. The authority citation for part 110 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 1.53.

§§ 110.30 and 110.120 [Amended]

■ 18. In part 110, remove the wording "400 7th Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE." in the following places:
■ a. Section 110.30(a) introductory text; and
■ b. Section 110.120.

§ 110.5 [Amended]

■ 19. In § 110.5, in paragraph (c), remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE.".

PART 130—OIL SPILL PREVENTION AND RESPONSE PLANS

■ 20. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1321.

§ 130.31 [Amended]

■ 21. In § 130.31, in paragraph (b)(6), remove the wording "400 Seventh Street, SW" and add in its place "East Building, 1200 New Jersey Avenue, SE.".

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 22. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 23. In § 171.6, in the table in paragraph (b)(2), the entry for OMB Control No. "2137–0557" is revised to read as follows:

§ 171.6 Control numbers under the Paperwork Reduction Act.

* * * * *

(b) * * *

(2) Table.

Current OMB Control No.	Title	Title 49 CFR part or section where identified and described
*	*	*
2137–0557	Approvals for Hazardous Materials	§§ 107.402, 107.403, 107.405, 107.502, 107.503, 107.705, 107.713, 107.715, 107.717, 107.803, 107.805, 107.807, 110.30, 172.101, 172.102, Special Provisions 19, 26, 53, 55, 60, 105, 118, 121, 125, 129, 131, 133, 136, B45, B55, B61, B69, B77, B81, N10, N72, 173.2a, 173.4, 173.7, 173.21, 173.22, 173.24, 173.31, 173.38, 173.51, 173.56, 173.58, 173.59, 173.124, 173.128, 173.159, 173.166, 173.171, 173.214, 173.222, 173.224, 173.225, 173.245, 173.301, 173.305, 173.306, 173.314, 173.315, 173.316, 173.318, 173.334, 173.340, 173.411, 173.433, 173.457, 173.471, 173.472, 173.476, 174.50, 174.63, 175.8, 175.85, 175.701, 175.703, 176.168, 176.340, 176.704, 178.3, 178.35, 178.47, 178.53, 178.273, 178.274, 178.503, 178.509, 178.605, 178.606, 178.608, 178.801, 178.813, 180.213.
*	*	*

■ 24. In § 171.7, make the following changes:

■ a. Revise paragraph (a)(2)(i);

■ b. In the table in paragraph (a)(3), under "American Petroleum Institute", revise the entry "API Recommended Practice Closures of Underground Petroleum Storage Tanks, 3rd Edition, March 1996";

■ c. In the table in paragraph (a)(3), under "American Society of Mechanical Engineers", revise the entry "ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of

American Society of Mechanical Engineers Boiler and Pressure Vessel Code";

■ d. In the table in paragraph (a)(3) under "International Organization for Standardization", remove the entry "ISO 82–74(E) Steels Tensile Testing"; and

■ e. In the table in paragraph (a)(3), under "United Nations", for the entry "UN Recommendations on the Transport of Dangerous Goods, Fourteenth Revised Edition (2005), Volumes I and II", in the second column, remove reference citation "171.28" and add in its place "171.12".

The revisions read as follows:

§ 171.7 Reference material.

(a) * * *

(2) * * *

(i) The Office of Hazardous Materials Safety, Office of Hazardous Materials Standards, East Building, PHH–10, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; and

* * * * *

(3) *Table of material incorporated by reference.* * * *

Source and name of material	49 CFR reference
API Recommended Practice Closures of Underground Petroleum Storage Tanks, 3rd Edition, March 1996.	172.102.
ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code.	172.102; 173.24b; 173.32; 173.306; 173.315; 173.318; 173.420; 178.245–1; 178.245–3; 178.245–4; 178.245–6; 178.245–7; 178.255–1; 178.255–2; 178.255–14; 178.255–15; 178.273; 178.274; 178.276; 178.277; 178.320; 178.337–1; 178.337–2; 178.337–3; 178.337–4; 178.337–6; 178.337–16; 178.337–18; 178.338–1; 178.338–2; 178.338–3; 178.338–3; 178.338–4; 178.338–5; 178.338–6; 178.338–13; 178.338–16; 178.338–18; 178.338–19; 178.345–1; 178.345–2; 178.345–3; 178.345–4; 178.345–7; 178.345–14; 178.345–15; 178.346–1; 178.347–1; 178.348–1; 179.400–3; 180.407.
UN Recommendations on the Transport of Dangerous Goods, Fourteenth Revised Edition (2005), Volumes I and II.	171.8; 171.12; 172.202; 172.401; 172.502; 173.22; 173.24; 173.24b; 173.40; 173.56; 173.192; 173.197; 173.302b; 173.304b; 178.75; 178.274; 178.801.

■ 25. In § 171.8, the definitions for *Administrator* and *Shipping paper* are revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Administrator means the Administrator, Pipeline and Hazardous Materials Safety Administration.

* * * * *

Shipping paper means a shipping order, bill of lading, manifest or other shipping document serving a similar purpose and prepared in accordance with subpart C of part 172 of this chapter.

* * * * *

§ 171.14 [Amended]

■ 26. In § 171.14, in paragraph (d)(6), the reference citation "172.202(a)(6)" is revised to read "172.202(a)(7)".

■ 27. In § 171.15, paragraph (b)(3) is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

* * * * *

(b) * * *

(3) Fire, breakage, spillage, or suspected contamination occurs involving an infectious substance other than a regulated medical waste;

* * * * *

■ 28. In § 171.22, the section heading is revised to read as follows:

§ 171.22 Authorization and conditions for the use of international standards and regulations.

* * * * *

■ 28a. In § 171.23, paragraph (b)(5) introductory text is revised to read as follows:

§ 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations.

* * * * *

(b) * * *

(5) *Hazardous substances.* A material meeting the definition of a hazardous substance as defined in § 171.8, must conform to the shipping paper requirements in § 172.203(c) of this subchapter and the marking requirements in § 172.324 of this subchapter:

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 29. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.53.

■ 30. In § 172.101, the Hazardous Materials Table is amended by removing, adding and revising entries, in the appropriate alphabetical sequence, to read as follows:

§ 172.101.—HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE].												
I	Ammonia, anhydrous	2.3	UN1005		2.3, 8	4, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
D	Ammonia, anhydrous	2.2	UN1005		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
D	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.2	UN3318		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
I	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.3	UN3318		2.3, 8	4, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
	Ammonia solutions, *relative density between 0.880 and 0.957 at 15 degrees C in water, with more than 10 percent but not more than 35 percent ammonia.*	8	UN2672	III	8	IB3, IP8, T7, TP1.	154	203	241	5 L	60 L	A	40, 52, 85
	Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.*	2.2	UN2073		2.2		306	304	314, 315	Forbidden	150 kg	E	40, 52, 57
I	Ammonia, anhydrous	2.3	UN1005		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 57
D	Ammonia, anhydrous	2.2	UN1005		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 57
I	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.3	UN3318		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 57

§ 172.101.—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
I	Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.*	2.3	UN3318		2.3, 8	4, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 57
	Ammonia solutions, *relative density between 0.880 and 0.957 at 15 degrees C in water, with more than 10 percent but not more than 35 percent ammonia,*	8	UN2672	III	8	IB3, IP8, T7, TP1.	154	203	241	5 L	60 L	A	40, 85
	Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.*	2.2	UN2073		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40, 57
G	Articles, explosive, n.o.s.	1.2D	UN0467I	I	1.2D		None	62	None	Forbidden	Forbidden	07.	
	Crotonaldehyde or Crotonaldehyde, stabilized.	6.1	UN1143	I	6.1, 3	2, 175, B9, B14, B32, B74, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	B	40
	Helium-oxygen mixture, see Rare gases and oxygen mixtures.												

	Hydrogendifluorides, solid, n.o.s.	8	UN1740	II	8	IB8, IP2, IP4, N3, N34, T3, TP33.	None	212	240	15 kg	50 kg	A	25, 40, 52
				III	8	IB8, IP3, N3, N34, T1, TP33.	154	213	240	25 kg	100 kg	A	25, 40, 52
	Nitrocellulose, *with not more than 12.6 percent nitrogen, by dry mass, or Nitrocellulose mixture with pigment or Nitrocellulose mixture with plasticizer or Nitrocellulose mixture with pigment and plasticizer.*	4.1	UN2557	II	4.1	44	151	212	None	1 kg	15 kg	D	28
	Nitrogen, mixtures with rare gases, see Rare gases and nitrogen mixtures.												
	4-Nitrophenylhydrazine, *with not less than 30% water, by mass.*	4.1	UN3376	I	4.1	164, A8, A19, A20, N41.	None	211	None	Forbidden	15 kg	E	36
G	Organoarsenic compound, liquid, n.o.s.	6.1	UN3280	I	5, T14, TP2, TP13, TP27.	None	201	242	1 L	30 L	B	6.1.	
				II	6.1	IB2, T11, TP2, TP27.	153	202	242	5 L	60 L	B.	
				III	6.1	IB3, T7, TP1, TP28.	153	203	241	60 L	220 L	A.	
	Oxygen, mixtures with rare gases, see Rare gases and oxygen mixtures.												
	Paint or Paint related materials.	8	UN3066	II	8	B2, IB2, T7, TP2, TP28.	154	173	242	1 L	30 L	A.	
				III	8	B52, IB3, T4, TP1, TP29.	154	173	241	5 L	60 L	A.	

§ 172.101.—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Paint related material, flammable, corrosive (*including paint thinning or reducing compound.*	3	UN3469	I	3, 8	T11, TP2, TP27.	None	201	243	0.5 L	2.5 L	E	40
				II	3, 8	IB2, T7, TP2, TP8, TP28.	150	202	243	1 L	5 L	B	40
				III	3, 8	IB3, T4, TP1, TP29.	150	203	242	5 L	60 L	A	40
	[ADD].												
I	Ammonia, anhydrous	2.3	UN1005		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
D	Ammonia, anhydrous	2.2	UN1005		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
I	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.3	UN3318		2.3, 8	4, N87, T50.	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
D	Ammonia solution, *relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia.*	2.2	UN3318		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
	Ammonia solutions, *relative density less than 0.880 at 15 degrees C in water, with more than 35 percent but not more than 50 percent ammonia.*	2.2	UN2073		2.2	N87	306	304	314, 315	Forbidden	150 kg	E	40, 52, 57

	Ammonia solution, *relative density between 0.880 and 0.957 at 15 degrees C in water, with more than 10 percent but not more than 35 percent ammonia.*	8	UN2672	III	8	IB3, IP8, T7, TP1.	154	203	241	5 L	60 L	A	40, 52, 85
G	Articles, explosive, n.o.s.	1.2D	UN0467	II	1.2D		None	62	None	Forbidden	Forbidden	07.	
	Crotonaldehyde or Crotonaldehyde, stabilized	6.1	UN1143	I	6.1, 3	2, 175, B9, B14, B32, B74, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	B	40
	Hydrogendifluoride, solid, n.o.s.	8	UN1740	II	8	IB8, IP2, IP4, N3, N34, T3, TP33.	None	212	240	15 kg	50 kg	A	25, 40, 52
				III	8	IB8, IP3, N3, N34, T1, TP33.	154	213	240	25 kg	100 kg	A	25, 40, 52
	Nitrocellulose, *with not more than 12.6 percent, by dry mass* mixture with or without plasticizer, with or without pigment.	4.1	UN2557	II	4.1	44	151	212	None	1 kg	15 kg	D	28
	4-Nitrophenylhydrazine, *with not less than 30 percent water, by mass.*	4.1	UN3376	I	4.1	162, A8, A19, A20, N41.	None	211	None	Forbidden	15 kg	E	36
G	Organoarsenic compound, liquid, n.o.s..	6.1	UN3280	I	6.1	5, T14, TP2, TP13, TP27.	None	201	242	1 L	30 L	B.	
				II	6.1	IB2, T11, TP2, TP27.	153	202	242	5 L	60 L	B.	
				III	6.1	IB3, T7, TP1, TP28.	153	203	241	60 L	220 L	A.	

§ 172.101.—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	(8) Packaging (§ 173.***) Non-bulk	(8) Packaging (§ 173.***) Bulk	(9) Quantity limitations Passenger aircraft/rail	(9) Quantity limitations Cargo aircraft only	(10) Vessel stowage Location	(10) Vessel stowage Other
	Paint *or* Paint related material.	8	UN3066	II	8	B2, IB2, T7, TP2, TP28.	154	173	242	1 L	30 L	A.	
				III	8	B52, IB3, T4, TP1, TP29.	154	173	241	5 L	60 L	A.	
	Paint related material, flammable, corrosive (*including paint thinning or reducing compound*).	3	UN3469	I	3, 8	T11, TP2, TP27.	None	201	243	0.5L	2.5 L	E	40
				II	3, 8	IB2, T7, TP2, TP8, TP28.	150	202	243	1 L	5 L	B	40
				III	3, 8	IB3, T4, TP1, TP29.	150	203	242	5 L	60 L	A	40
	[REVISE].												
	Alcohols, n.o.s.	3	UN1987	I	3	172, T11, TP1, TP8, TP27.	None	201	243	1 L	30 L	E.	
				II	3	172, IB2, T7, TP1, TP8, TP28.	150	202	242	5 L	60 L	B.	
				III	3	172, B1, IB3, T4, TP1, TP29.	150	203	242	60 L	220 L	A..	
G	Articles, explosive, n.o.s.	1.4G	UN0353	II	1.4G		None	62	None	Forbidden	75 kg	06.	
	Caesium hydroxide solution.	8	UN2681	II	8	B2, IB2, T7, TP2.	154	202	242	1 L	30 L	A	29, 52
				III	8	IB3, T4, TP1.	154	203	241	5 L	60 L	A	29, 52
G	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.2L	UN0248	II	1.2L	None	62	None	Forbidden	Forbidden	08	8E, 14E, 15E, 17E.	

G	Contrivances, water-activated, *with burster, expelling charge or propelling charge.*	1.3L	UN0249	II	1.3L		None	62	None	Forbidden	Forbidden	08	8E, 14E, 15E, 17E
	Hydrazine, aqueous solution, *with more than 37% hydrazine, by mass.*	8	UN2030	I	8, 6.1	B16, B53, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40, 52
				II	8, 6.1	B16, B53, IB2, T7, TP2, TP13.	None	202	243	Forbidden	30 L	D	40, 52
				III	8, 6.1	B16, B53, IB3, T4, TP2.	154	203	241	5 L	60 L	D	40, 52
	Hydrogen, peroxide, aqueous solutions *with more than 40 percent but not more than 60 percent hydrogen peroxide (stabilized as necessary).*	5.1	UN2014	II	5.1, 8	12, A60, B53, B80, B81, B85, IB2, IP5, T7, TP2, TP6, TP24, TP37.	None	202	243	Forbidden	Forbidden	D	25, 66, 75
	Hydrogen, peroxide, aqueous solutions *with not less than 8 percent but less than 20 percent hydrogen peroxide (stabilized as necessary).*	5.1	UN2984	III	5.1	A1, IB2, IP5, T4, TP1, TP6, TP24, TP37.	152	203	241	2.5 L	30 L	B	25, 66, 75

* * * * *

§ 172.202 [Amended]

■ 31. In § 172.202, in paragraph (a)(6)(vi), the wording "except for UN2800, UN3072, and UN3166" is removed and "except for UN2800, UN2807, UN3072, UN3166 and UN3171" is added in its place.

■ 32. In § 172.302, the last sentence in paragraph (f) is revised to read as follows:

§ 172.302 General marking requirements for bulk packagings.

* * * * *

(f) * * * For example, a tank car marked "NITRIC OXIDE" need not be remarked "NITRIC OXIDE, COMPRESSED".

* * * * *

■ 33. In § 172.303, paragraph (a) is revised to read as follows:

§ 172.303 Prohibited marking.

(a) No person may offer for transportation or transport a package which is marked with the proper shipping name, the identification number of a hazardous material or any other markings indicating that the material is hazardous (e.g., RQ, INHALATION HAZARD) unless the package contains the identified hazardous material or its residue.

* * * * *

§ 172.505 [Amended]

■ 34. In § 172.505, in paragraph (a), revise the reference citation "§ 172.203(m)(2)" to read "§ 172.203(m)".

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 35. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

§ 173.6 [Amended]

■ 36. In § 173.6, in the last sentence in paragraph (a)(4) introductory text, revise the word "movement" to read "shifting".

■ 37. In § 173.22, paragraph (c)(2) is revised to read as follows:

§ 173.22 Shipper's Responsibility.

* * * * *

(c) * * *

(2) Equivalent requirements approved by the Associate Administrator.

§ 173.22a [Amended]

■ 38. In § 173.22a, in paragraph (b), remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE.".

■ 39. In § 173.31, paragraphs (g)(1) and (g)(2) are revised to read as follows:

§ 173.31 Use of tank cars.

* * * * *

(g) * * *

(1) Each hazmat employee who is responsible for loading or unloading a tank car must secure access to the track to prevent entry by other rail equipment, including motorized service vehicles. Derails, lined and locked switches, portable bumper blocks, or other equipment that provides an equivalent level of security may be used to satisfy this requirement.

(2) Caution signs must be displayed on the track or on the tank cars to warn persons approaching the cars from the open end of the track and must be left up until after all closures are secured and the cars are in proper condition for transportation. The caution signs must be of metal or other durable material, rectangular, at 30.48 cm (12 inches) high by 38.10 cm (15 inches) wide, and bear the word "STOP." The word "STOP" must appear in letters at least 10.16 cm (4 inches) high. The letters must be white on a blue background. Additional words, such as "Tank Car Connected" or "Crew at Work," may also appear in white letters under the word "STOP."

* * * * *

■ 40. In § 173.132, paragraphs (a)(1)(i) and (a)(1)(iii) are revised to read as follows:

§ 173.132 Class 6, Division 6.1—Definitions.

* * * * *

(a) * * *

(1) * * *

(i) *Oral Toxicity.* A liquid or solid with an LD_{50} for acute oral toxicity of not more than 300 mg/kg.

(ii) * * *

(iii) *Inhalation Toxicity.* (A) A dust or mist with an LC_{50} for acute toxicity on inhalation of not more than 4 mg/L; or

(B) A material with a saturated vapor concentration in air at 20 °C (68 °F) greater than or equal to one-fifth of the LC_{50} for acute toxicity on inhalation of vapors and with an LC_{50} for acute toxicity on inhalation of vapors of not more than 5000 mL/m^3; or

* * * * *

§ 173.134 [Amended]

■ 41. In § 173.134, in paragraph (a)(8), the wording "diagnostic specimen" is revised to read "patient specimen".

■ 42. In § 173.150, the first sentence of paragraph (b) introductory text and paragraph (d)(2) are revised to read as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(b) *Limited quantities.* Limited quantities of flammable liquids (Class 3) and combustible liquids are excepted from labeling requirements, unless the material also meets the definition of Division 6.1 or is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. * * *

* * * * *

(d) * * *

(2) Is in an inner packaging of 5 L (1.3 gallons) or less, and for transportation on passenger-carrying aircraft conforms to § 175.10(a)(4) of this subchapter as checked or carry-on baggage; or

* * * * *

■ 43. In § 173.151, the first sentence of paragraph (b) introductory text and the first sentence of paragraph (d) introductory text are revised to read as follows:

§ 173.151 Exceptions for Class 4.

* * * * *

(b) *Limited quantities of Division 4.1.* Limited quantities of flammable solids (Division 4.1) in Packing Group II or III are excepted from labeling requirements, unless the material also meets the definition of Division 6.1 or is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. * * *

* * * * *

(d) *Limited quantities of Division 4.3.* Limited quantities of Division 4.3 (dangerous when wet) solids in Packing Group II or III are excepted from labeling requirements, unless the material also meets the definition of Division 6.1 or is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. * * *

* * * * *

■ 44. In § 173.152, the first sentence of paragraph (b) introductory text is revised to read as follows:

§ 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).

* * * * *

(b) *Limited quantities.* Limited quantities of oxidizers (Division 5.1) in

Packing Group II and III and organic peroxides (Division 5.2) are excepted from labeling requirements, unless the material also meets the definition of Division 6.1 or is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. * * *

* * * * *

■ 45. In § 173.154, the first sentence of paragraph (b) introductory text is revised to read as follows:

§ 173.154 Exceptions for Class 8 (corrosive materials).

* * * * *

(b) *Limited quantities.* Limited quantities of corrosive materials (Class 8) in Packing Group II and III are excepted from labeling requirements, unless the material also meets the definition of Division 6.1 or is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. * * *

* * * * *

§ 173.199 [Amended]

■ 46. In § 173.199, in paragraph (a) introductory text, the reference "§ 175.85" is revised to read "§ 175.75(b)".

§ 173.225 [Amended]

■ 47. In § 173.225, in paragraph (c), in Note 17 following the Organic Peroxide Table, remove the phrase "≥" and add "≤" in its place.

■ 48. In § 173.244, paragraph (c) is revised to read as follows:

§ 173.244 Bulk packaging for certain pyrophoric liquids (Division 4.2), dangerous when wet (Division 4.3) materials, and poisonous liquids with inhalation hazards (Division 6.1).

* * * * *

(c) *Portable tanks:* DOT 51 portable tanks and UN portable tanks that meet the requirements of this subchapter, when a T code is specified in Column (7) of the § 172.101 Table of this subchapter for the specific hazardous material, are authorized. Additionally, a DOT 51 or UN portable tank used for Division 6 1 liquids, Hazard Zone A or B, must be certified and stamped to the ASME Code as specified in § 178.273(b)(6) of this subchapter.

■ 49. In § 173.411, paragraph (b)(5) is revised to read as follows:

§ 173.411 Industrial packagings.

* * * * *

(b) * * *

(5) Tanks, other than tank containers, including DOT Specification IM 101 or IM 102 steel portable tanks, may be used as Industrial package Types 2 or 3 (Type IP–2) or (Type IP–3) for transporting LSA–I and LSA–II liquids and gases as prescribed in Table 6, provided that they conform to standards at least equivalent to those prescribed in paragraph (b)(4) of this section.

* * * * *

§ 173.471 [Amended]

■ 50. In § 173.471, in paragraphs (d) and (e), remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE.".

PART 174—CARRIAGE BY RAIL

■ 51. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 52. In § 174.67, make the following changes:

■ a. Revise paragraphs (a)(2), (a)(3), and (a)(4)

■ b. Add paragraph (a)(6).

The revisions and addition read as follows:

§ 174.67 Tank car unloading.

* * * * *

(a) * * *

(2) Each hazmat employee who is responsible for unloading must apply the handbrake and block at least one wheel to prevent movement in any direction. If multiple tank cars are coupled together, sufficient hand brakes must be set and wheels blocked to prevent movement in both directions.

(3) Each hazmat employee who is responsible for unloading must secure access to the track to prevent entry by other rail equipment, including motorized service vehicles. This requirement may be satisfied by lining each switch providing access to the unloading area against movement and securing each switch with an effective locking device, or by using derails, portable bumper blocks, or other equipment that provides and equivalent level of safety.

(4) Each hazmat employee who is responsible for unloading must display caution signs on the track or on the tank cars to warn persons approaching the cars from the open end of the track and must be left up until after all closures are secured and the cars are in proper condition for transportation. The caution signs must be of metal or other durable material, rectangular, at 30.48 cm (12 inches) high by 38.10 cm (15 inches) wide, and bear the word "STOP." The word "STOP" must appear in letters at least 10.16 cm (4 inches) high. The letters must be white on a blue background. Additional words, such as "Tank Car Connected" or "Crew at Work," may also appear in white letters under the word "STOP."

* * * * *

(6) Before a manhole cover or outlet valve cap is removed form a tank car, the car must be relieved of all interior pressure by cooling the tank with water or by venting the tank by raising the safety valve or opening the dome vent at short intervals. However, if venting to relieve pressure will cause a dangerous amount of vapor to collect outside the car, venting and unloading must be deferred until the pressure is reduced by allowing the car to stand overnight or otherwise cooling the contents. These precautions are not necessary when the car is equipped with a manhole cover which hinges inward or with an inner manhole cover which does not have to be removed to unload the car, and when pressure is relieved by piping vapor into a condenser or storage tank.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

■ 53. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.53.

§ 175.8 [Amended]

■ 54. In § 175.8, in paragraph (a)(3)(ii), the reference "§ 175.75(a)" is revised to read "§ 175.75(c)".

■ 55. In § 175.75, make the following changes:

■ a. Revise paragraph (e)(3); and

■ b. In paragraph (e)(5), the "Section 175.75 Quantity and Loading Tables" are revised.

The revisions read as follows:

§ 175.75 Quantity limitations and cargo location.

* * * * *

(e) * * *

(3) Packages of hazardous materials transported aboard a cargo aircraft, when other means of transportation are impracticable or not available, in accordance with procedures approved in writing by the FAA Regional or Field Security Office in the region where the operator is located.

* * * * *

(5) * * *

Section 175.75 Quantity and Loading Tables

PASSENGER AIRCRAFT

Packages Authorized for Transport Onboard a Passenger Aircraft

In an accessible cargo compartment		
If packages are accessible	If packages are inaccessible	If packages are in a freight container
No limit	25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).	25 kg per container plus an additional 75 kg of Division 2.2 material. (see Note 1).

In an inaccessible cargo compartment	
If packages are not in a freight container	If packages are in a freight container
25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).	25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).

CARGO ONLY AIRCRAFT

Packages Authorized for Transport Onboard a Passenger Aircraft

In an accessible cargo compartment		
If packages are accessible	If packages are inaccessible	If packages are in a freight container
No limit	25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).	25 kg per container plus an additional 75 kg of Division 2.2 material. (see Note 1).

In an inaccessible cargo compartment	
If packages are not in a freight container	If packages are in a freight container
25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).	25 kg per compartment plus an additional 75 kg of Division 2.2 material. (see Note 1).

Packages Only Authorized for Transport Aboard a Cargo Aircraft

In an accessible cargo compartment			
If packages are accessible	If packages are inaccessible	If packages are in a freight container and are accessible	If packages are in a freight container and are inaccessible
No limit	Forbidden. (see Note 1)	No Limit	Forbidden. (see Note 1).

In an inaccessible cargo compartment	
If packages are not in a freight container	If packages are in a freight container
Forbidden. (see Note 1)	Forbidden. (see Note 1).

Note 1: The following materials are not subject to this restriction:
a. Class 3, PG III (unless the hazardous material meets the definition of another hazard class).
b. Class 6 (unless also labeled as a flammable liquid).
c. Class 7 (unless the hazardous material meets the definition of another hazard class).

PART 176—CARRIAGE BY VESSEL

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 56. The authority citation for part 176 continues to read as follows:

§ 176.83 Segregation.

* * * * *

(l) * * *

* * * * *

■ 57. In § 176.83, in paragraph (l), Table 176.83(l)(3) is revised to read as follows:

TABLE § 176.83(L)(3).—SEGREGATION OF CARGO TRANSPORT UNITS ON BOARD HATCHLESS CONTAINER SHIPS

Segregation requirement	Vertical			Horizontal						
	Closed versus closed	Closed versus open	Open versus open		Closed versus closed		Closed versus open		Open versus open	
					On deck	Under deck	On deck	Under deck	On deck	Under deck
1. "Away from"	On top of the other permitted.	Open on top of closed permitted.		Fore and aft.	No restriction.	No restriction.	No restriction.	No restriction.	One container space.	One container space or one bulkhead.

TABLE § 176.83(L)(3).—SEGREGATION OF CARGO TRANSPORT UNITS ON BOARD HATCHLESS CONTAINER SHIPS—Continued

Segregation requirement	Vertical			Horizontal						
	Closed versus closed	Closed versus open	Open versus open		Closed versus closed		Closed versus open		Open versus open	
					On deck	Under deck	On deck	Under deck	On deck	Under deck
		Otherwise as for "Open versus open".	.....	Athwart ships.	No restriction.	No restriction.	No restriction.	No restriction.	One container space.	One container space.
2. "Separated from"	.....	.....	Not in the same vertical line.	Fore and aft.	One container space.	One container space or one bulkhead.	One container space.	One container space or one bulkhead.	One container space and not in or above same hold.	One bulkhead.
	Not in the same vertical line.	As for "Open versus open".	.....	Athwart ships.	One container space.	One container space.	Two container spaces.	Two container spaces.	Two container spaces and not in or above same hold.	One bulkhead.
3. "Separated by a complete compartment or hold from".	.....	.....	.....	Fore and aft.	One container space and not in or above same hold.	One bulkhead.	One container space and not in or above same hold.	One bulkhead.	Two container spaces and not in or above same hold.	Two bulkheads.
				Athwart ships.	Two container spaces and not in or above same hold.	One bulkhead.	Two container spaces and not in or above same hold.	One bulkhead.	Three container spaces and not in or above same hold.	Two bulkheads.
4. "Separated longitudinally by an intervening complete compartment or hold from".	Prohibited	Prohibited	.....	Fore and aft.	Minimum horizontal distance of 24 m and not in or above same hold.	One bulkhead and minimum horizontal distance of 24 m*.	Minimum horizontal distance of 24 m and not in or above same hold.	Two bulkheads.	Minimum horizontal distance of 24 m and not in or above same hold.	Two bulkheads.
				Athwart ships.	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited.

*Containers not less than 6 m (20 feet) from intervening bulkhead.
Note: All bulkheads and decks must be resistant to fire and liquid.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 58. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

§§ 178.270–12, 178.270–13, 178.270–14 [Removed]

■ 59. Remove §§ 178.270–12, 178.270–13, 178.270–14.

■ 60. In § 178.273, make the following changes.

■ a. Revise the section heading;

■ b. Revise the second sentence in paragraph (b)(7)(ii); and

■ c. Revise paragraph (e)(1).

The revisions read as follows:

§ 178.273 Approval of Specification UN portable tanks.

* * * * *

(b) * * *

(7) * * *

(ii) * * * The approval certificate must include all the information required to be displayed on the metal identification plate required by § 178.274(i). * * *

* * * * *

(e) * * *

(1) Prior to modification of any UN portable tank which may affect conformance and the safe use of the portable tank, which may involve a change to the design type or which may affect its ability to retain hazardous material in transportation, the person desiring to make such modification shall inform the approval agency that issued the initial approval of the portable tank (or if unavailable, another approval agency) of the nature of the modification and request approval of the modification. The person desiring to modify the tank must supply the approval agency with three sets of all revised drawings, calculations, and test

data relative to the intended modification.

* * * * *

■ 61. In § 178.274, the sixth sentence in paragraph (b)(1) is revised to read as follows:

§ 178.274 Specifications for UN portable tanks.

* * * * *

(b) * * *

(1) * * * Portable tanks must have an ASME certification and U stamp when used for Hazard Zone A or B toxic by inhalation liquids, or when used for non-refrigerated or refrigerated liquefied compressed gases. * * *

* * * * *

■ 62. In § 178.348–4, paragraph (d)(3) is revised to read as follows:

§ 178.348–4 Pressure relief.

* * * * *

(d) * * *

(3) Cargo tanks used in dedicated service for materials classed as corrosive material, with no secondary hazard, may have a total venting capacity which is less than required by § 178.345–10(e). The minimum total venting capacity for these cargo tanks must be determined in accordance with the following formula (use of approximate values given for the formula is acceptable):

Formula in Nonmetric Units

$Q = 37{,}980{,}000\ A^{0.82}\ (ZT)^{0.5} / (LC)(M^{0.5})$

Where:

Q = The total required venting capacity, in cubic meters of air per hour at standard conditions of 15.6 °C and 1 atm (cubic feet of air per hour at standard conditions of 60 °F and 14.7 psia);

T = The absolute temperature of the vapor at the venting conditions—degrees Kelvin (°C+273) [degrees Rankine (°F+460)];

A = The exposed surface area of tank shell—square meters (square feet);

L = The latent heat of vaporization of the lading—calories per gram (BTU/lb);

Z = The compressibility factor for the vapor (if this factor is unknown, let Z equal 1.0);

M = The molecular weight of vapor;

C = A constant derived from (K), the ratio of specific heats of the vapor. If (K) is unknown, let C = 315.

$C = 520[K(2/(K+1)][(K+1)/(K-1)]]0.5$

Where:

$K = C_p / C_v$

C_p = The specific heat at constant pressure, in -calories per gram degree centigrade (BTU/lb °F.); and

C_v = The specific heat at constant volume, in -calories per gram degree centigrade (BTU/lb °F.).

■ 62a. In § 178.606, paragraph (c)(2)(ii) is revised to read as follows:

§ 178.606 Stacking test.

* * * * *

(c) * * *

(2) * * *

(ii) The packaging may be tested using a dynamic compression testing machine. The test must be conducted at room temperature on an empty, unsealed packaging. The test sample must be centered on the bottom platen of the testing machine. The top platen must be lowered until it comes in contact with the test sample. Compression must be applied end to end. The speed of the compression tester must be one-half inch plus or minus one-fourth inch per minute. An initial preload of 50 pounds must be applied to ensure a definite contact between the test sample and the platens. The distance between the platens at this time must be recorded as zero deformation. The force A to then be applied must be calculated using the formula:

Liquids: $A = (n-1)\ [w + (s \times v \times 8.3 \times .98)] \times 1.5$;

Solids: $A = (n-1)\ (m \times 2.2 \times 1.5)$

Where:

A = applied load in pounds

m = the certified maximum gross mass for the container in kilograms.

n = minimum number of containers that, when stacked, reach a height of 3 meters.

s = specific gravity of lading.

w = maximum weight of one empty container in pounds.

v = actual capacity of container (rated capacity + outage) in gallons.

And:

8.3 corresponds to the weight in pounds of 1.0 gallon of water.

.98 corresponds to the minimum filling percentage of the maximum capacity for liquids.

1.5 is a compensation factor that converts the static load of the stacking test into a load suitable for dynamic compression testing.

2.2 is the conversion factor for kilograms to pounds.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

■ 63. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

§ 179.18 [Amended]

■ 64. In § 179.18, in paragraph (c), remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE.".

■ 65. In § 179.300–19, paragraph (a) is revised to read as follows:

§ 179.300–19 Inspection.

(a) Tank shall be inspected within the United States and Canada by a competent and impartial inspector as approved by the Associate Administrator of Safety, FRA. For tanks made outside the United States or Canada, the specified inspection shall be made within the United States.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 66. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 67. In § 180.209, the table in paragraph (i)(1) and Notes 1 and 2 following the table are revised to read as follows:

§ 180.209 Requirements for requalification of specification cylinders.

* * * * *

(i) * * *

(1) * * *

Date of cylinder manufacture	Shell (visual inspection) requalification		Porous filler requalification	
	Initial	Subsequent	Intial	Subsequent
Before January 1, 1991	Before January 1, 2001	10 years	Before January 1, 2011	Not required.
On or after January 1, 1991.	10 years [1]	10 years	5 to 20 years [2]	Not required.

[1] Years from the date of cylinder manufacture.

[2] No sooner than 5 years, and no later than 20 years from the date of manufacture.

* * * * *

§ 180.212 [Amended]

■ 68. In § 180.212, in paragraph (b)(2), the wording "by the original manufacturer of the cylinder" is revised to read: "by a cylinder manufacturer of these types of cylinders".

■ 69. In § 180.215, paragraph (b) introductory text is revised to read as follows:

§ 180.215 Reporting and record retention requirements.

* * * * *

(b) *Requalification records.* Daily records of visual inspection, pressure test, and ultrasonic examination if permitted under a special permit, as applicable, must be maintained by the person who performs the requalification until either the expiration of the requalification period or until the cylinder is again requalified, whichever occurs first. A single date may be used for each test sheet, provided each test on the sheet was conducted on that date. Ditto marks or a solid vertical line may be used to indicate repetition of the preceding entry for the following entries only: date; actual dimensions; manufacturer's name or symbol, if present; owner's name or symbol, if present; and test operator. Blank spaces may not be used to indicate repetition of a prior entry. The records must include the following information:

* * * * *

§ 180.409 [Amended]

■ 70. In § 180.409, in paragraph (d)(2), remove the wording "400 Seventh Street, SW." and add in its place "East Building, 1200 New Jersey Avenue, SE.".

Issued in Washington, DC, on September 24, 2007, under authority delegated in 49 CFR part 1.

Krista L. Edwards,

Acting Administrator.

[FR Doc. E7–19138 Filed 9–28–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365, 369, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, and 397

RIN 2126–AB13

Technical Amendments to Federal Motor Carrier Safety Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule makes technical corrections throughout 49 Code of Federal Regulations subtitle B, chapter III. In 2007, the FMCSA moved to 1200 New Jersey Avenue, SE., Washington, DC 20590. This rule changes obsolete references to the old address. In addition, we are making minor editorial changes to correct errors and omissions and improve clarity. This rule does not make any substantive changes to the affected parts of the Federal Motor Carrier Safety Regulations.

DATES: Effective October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jason Hartman, Regulatory Development Division, (202) 366–5043, *jason.hartman@dot.gov*. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

The provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) amended by this rule are based on many different statutes. The legal authority for each of those provisions was explained when the requirement was originally adopted and is summarized at the beginning of each part in title 49, Code of Federal Regulations (CFR). No further analysis is required here.

A few of the amendments made by this rule are required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, August 10, 2005. Because the SAFETEA–LU mandates left the Federal Motor Carrier Administration (FMCSA) no discretion, the changes (described later in the preamble) are appropriate for a technical amendment.

Title 49 CFR, subtitle B, chapter III contains all the FMCSRs.

Background

In 2007, FMCSA moved its headquarters from 400 Seventh Street, SW., Washington, DC 20590 to 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. The move makes it necessary to amend the CFR to change references to our address wherever they occur in the regulations.

This document also makes editorial changes to correct inaccurate references and citations, improve clarity, and fix errors. These minor editorial changes are set out below, in a section-by-section description of the changes.

Changes in SAFETEA–LU affected the financial responsibility requirements of both property and passenger carriers. Section 4120(b)(1) of SAFETEA–LU amended the reach of the financial responsibility statute for property carriers from "transportation of property for compensation by motor vehicle * * *" [49 U.S.C. 31139(b)(1)] to "transportation of property by *commercial motor vehicle* * * *" Section 4120(a)(1) changed the reach of the financial responsibility statute from "transportation of passengers for compensation by motor vehicle* * *" [49 U.S.C. 31138(a)] to "transportation of passengers by *commercial motor vehicle* * * *"

A commercial motor vehicle, for these purposes, means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation * * * [49 U.S.C. 31132(1)(A)–(C)].

Part 387 of 49 CFR has to be changed to reflect these modifications to FMCSA's authority to set insurance standards.

As a result of the change by section 4120(b)(1), the FMCSA no longer has the authority to set insurance standards for small freight vehicles with a GVW/GVR under 10,001 pounds (unless they are hauling placardable quantities of hazardous materials). We are deleting § 387.303(b)(1)(i) to remove the reference to those small freight vehicles. In addition, section 4120(a)(1) modified FMCSA's authority to set insurance standards for passenger carriers. At or below the 15-passenger threshold, FMCSA's authority is limited to passenger vehicles "designed or used to transport more than 8 passengers (including the driver) for compensation." We are removing the reference in § 387.303 (b)(1)(ii) to "Any vehicle with a seating capacity of 15 passengers or less." We are adding, instead, a reference to "Any vehicle designed or used to transport more than 8 passengers (including the driver) for compensation."

These amendments do not impose any new requirements and make no substantive changes to the CFR. Notice and comment are unnecessary.

Section by Section

Section 381.315. Paragraph (d)(2) is amended by replacing the old uniform resource locator (URL) for the DOT

Dockets Management System with a new reference to the Federal Docket Management System at *http://www.regulations.gov.*

Section 385.13. We are amending paragraph (d) by renumbering the subparagraphs and making wording changes to improve clarity.

Section 385.423. Paragraph (c) is amended by replacing the reference to §§ 386.31 and 386.33 with a new reference to §§ 386.5, 386.6, and 386.8. Sections 386.31 and 386.33 were deleted and superseded by §§ 386.6 and 386.5, respectively, on May 18, 2005 (70 FR 28467–28486). The cross reference to § 386.8 is added for clarification.

Part 385 Appendix B, Explanation of Safety Rating Process, is changed to reflect previous amendments to the CFR that were inadvertently never incorporated in the appendix. Before part 382 was revised on August 17, 2001 (66 FR 43103), the post-accident testing requirements for alcohol and controlled substances testing were both in § 382.303(a). For clarification, the revision kept the alcohol testing requirement in paragraph (a) and put the controlled substances testing requirement in paragraph (b). The same 2001 revision of § 382.115 clarified that all the previous implementation dates had elapsed and required all motor carriers, both domestic and foreign, to implement the testing program requirements when they begin operating commercial motor vehicles in the United States. We are changing part 385 Appendix B to correctly reflect those 2001 revisions.

Section 386.2. In the definition of "Assistant Administrator," § 386.2 is amended by correcting the reference to the United States Code (U.S.C.). The citation, which now reads "49 U.S.C. 113(d)," is changed to read "49 U.S.C. 113(e)."

Section 386.7. We are removing the paragraph designation (a) to correct the section.

Section 387.303. Because of the changes in SAFETEA–LU, described in the "Background" section above, paragraph (b)(1)(i) is rescinded and the table in (b)(1)(ii) is changed. In paragraph (b)(1)(ii), the second entry in the table, which used to cover any passenger vehicle with "a seating capacity of 15 passengers or less," now is limited to vehicles "designed or used to transport more than 8 passengers (including the driver) for compensation." Paragraph (b)(1)(ii) is also corrected to remove an obsolete reference to effective dates.

Section 389.5. We are clarifying paragraph (b) by renumbering and by adding a reference to the *regulations.gov* Web site where readers can have access to the Federal Docket Management System. We are also changing the address in paragraph (a).

Section 390.27. The table is corrected by moving New Mexico into the Western Service Center, which now has responsibility for that State. This document also changes the addresses for the Eastern, Southern, and Western Service Centers.

Section 391.23. Paragraph (c)(4) is corrected by changing "For a drivers" to "For drivers," to make the sentence grammatically correct.

Section 392.9. Paragraph (a)(1) is amended to correct the cross reference to reflect changes published in the **Federal Register** on September 27, 2002 (67 FR 61225). The new reference is to §§ 393.100 through 393.136

Section 395.1. On August 25, 2005 (70 FR 50071), the Agency amended the hours of service rules but in instructing the revision of paragraph (g), the Agency inadvertently omitted paragraphs (g)(3)(i) through (iv) of § 395.1 from the annual Code of Federal Regulations for October 1, 2005, and October 1, 2006. The 2005 amendment should have specified the revision of paragraph (g)(3) introductory text; the Agency never intended to remove paragraphs (g)(3)(i) through (iv). We are reinstating those paragraphs to correct that omission. Therefore, amendatory instruction 39 in this rule revises paragraph (g)(3) to correctly reinstate paragraphs (g)(3)(i) through (iv).

Rulemaking Analyses and Notices

Administrative Procedure Act

The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause on the basis that those procedures are "impracticable, unnecessary, or contrary to the public interest." (See 5 U.S.C. 553(b).) As stated above, the amendments made by this final rule merely update mailing addresses, correct inadvertent errors and omissions, remove obsolete references, and make minor editorial changes to improve clarity and consistency. These amendments do not impose any new requirements, nor do they make any substantive changes to the CFR. For these reasons, the FMCSA finds good cause that notice and public comment are unnecessary. Further, the Agency finds good cause under 5 U.S.C. 553(d)(3) to make the amendments effective upon publication.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. The Office of Management and Budget (OMB) did not review this document. We expect the final rule will have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA has evaluated the effects of this rule on small entities. Because the rule only makes editorial corrections and places no new requirements on the regulated industry, FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120 million or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

The FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We determined that this rulemaking will not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13132 (Federalism)

The FMCSA analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. The FMCSA has determined that this rulemaking will not have a substantial direct effect on States, nor will it limit the policy-making discretion of the States. Nothing in this document will preempt any State law or regulation. The FMCSA has therefore determined this rule does not have federalism implications.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that no new information collection requirements are associated with this final rule.

National Environmental Policy Act

The FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action would not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement.

The FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it will have no effect on the environment.

Executive Order 13211 (Energy Effects)

The FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a "significant energy action" under that Executive Order because it will not be economically significant and will not be likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Parts 385, 386, 387, 390, 391, 392, and 395

Highway safety, Motor carriers, Insurance, Motor vehicle safety, Reporting and recordkeeping requirements, and Surety bonds.

■ In consideration of the foregoing, FMCSA amends title 49, Code of Federal Regulations, subtitle B, chapter III, as follows:

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

■ 1. The authority citation for part 365 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.73.

§§ 365.405, 365.411, and 365.413 [Amended]

■ 2. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
365.405(a)(1)	FMCSA, Licensing Team; (MC–PSDRIS), 400 Seventh Street, SW., Room 8214, Washington, DC 20590.	Federal Motor Carrier Safety Administration, IT Operations Division (MC–RIO), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
365.411(b)	FMCSA Licensing Team (MC–PSDRIS), 400 Seventh Street, SW., Room 8214, Washington, DC 20590.	Federal Motor Carrier Safety Administration, IT Operations Division (MC–RIO), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
365.413(b) introductory text	FMCSA, Licensing Team (MC–PSDRIS), Washington, DC 20590.	Federal Motor Carrier Safety Administration, IT Operations Division (MC–RIO), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

PART 369—REPORTS OF MOTOR CARRIERS

■ 3. The authority citation for part 369 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 14123; 49 CFR 1.73.

§ 369.6 [Amended]

■ 4. In § 369.6, remove the words "Federal Motor Carrier Safety Administration, Office of Information Management, 400 Seventh St., SW., Washington, DC 20590" and add, in their place, the words "Federal Motor Carrier Safety Administration, Office of Information Technology (MC–RI), 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

■ 5. The authority citation for part 381 continues to read as follows:

Authority: 49 U.S.C. 31136(e) and 31315; 49 CFR 1.73.

§§ 381.210, 381.225, 381.310, 381.315, 381.325, 381.410, 381.415 [Amended]

■ 6. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
381.210(a)	Federal Motor Carrier safety Administrator, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20490.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
381.225	Office of Bus and Truck Research Standards and Operations, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366–1790.	Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

Section	Remove	Add
381.310(a)	Federal Motor Carrier Safety Administrator, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
381.315(d)(1)	Department of Transportation, U.S. DOT Dockets, Room PL–410, 400 Seventh Street, SW., Washington, DC.	Department of Transportation, Docket Management Facility, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
381.315(d)(2)	U.S. DOT Dockets, Room PL–401, by using the universal resources locator (URL): *http://dms.dot.gov.*	Department of Transportation, Docket Management Facility by using the Federal Docket Management System using the uniform resources locator (URL): *http://www.regulations.gov.*
381.325	Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366–1790.	Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
381.410(a)	Federal Motor Carrier Safety Administrator, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
381.415	Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366–1790.	Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

■ 7. The authority citation for part 382 continues to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; and 49 CFR 1.73.

§ 382.119 [Amended]

■ 8. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
382.119(b)	Federal Motor Carrier Safety Administrator (or the Administrator's designee), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
382.119(e)	Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The telephone number is (202) 366–5720.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 9. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; sec. 214 of Pub. L. 106–159, 113 Stat. 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 397; sec. 4140 of Pub. L. 109–59, 119 Stat. 1144; and 49 CFR 1.73.

§ 383.52 [Amended]

■ 10. In § 383.52(c), remove the words "Assistant Administrator, Adjudications Counsel, Federal Motor Carrier Safety Administration (Room 8217), 400 Seventh Street, SW., Washington, DC 20590" and add, in their place, the words "Assistant Administrator, Adjudications Counsel (MC–CC), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 11. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301 *et seq.*, 31502; sec. 103 of Pub. L. 106–159, 113 Stat. 1753, 1767; sec. 4140 of Pub. L. 109–59, 119 Stat. 1144; and 49 CFR 1.73.

§ 384.107 [Amended]

■ 12. In § 384.107(c)(1)(i), remove the words "Department of Transportation Library, 400 Seventh Street, SW., Washington, DC 20590 in Room 2200" and add, in their place, the words "Department of Transportation Library, 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 385—SAFETY FITNESS PROCEDURES

■ 13. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 5113, 13901–13905, 31136, 31144, 31148, and 31502; sec. 350 of Pub. L. 107–87; and 49 CFR 1.73.

§ 385.4 [Amended]

■ 14. In § 385.4(b)(2), remove the words "Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, 400 Seventh Street, SW., Washington, DC 20590" and add in their place the words "Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

■ 15. Amend § 385.13 to revise paragraph (d) to read as follows:

§ 385.13 Unsatisfactory rated motor carriers; prohibition on transportation; ineligibility for Federal contracts.

* * * * *

(d) *Penalties.* (1) If a proposed "unsatisfactory" safety rating becomes final, FMCSA will issue an order placing out of service the motor carrier's

operations in commerce. The out-of-service order shall apply both to the motor carrier's operations in interstate commerce *and to its operations affecting interstate commerce.*

(2) If a motor carrier's intrastate operations are declared out of service by a State, FMCSA must issue an order placing out of service the carrier's operations in interstate commerce. The following conditions apply:

(i) The State that issued the intrastate out-of-service order participates in the Motor Carrier Safety Assistance Program and uses the FMCSA safety rating methodology provided in this part; and

(ii) The motor carrier has its principal place of business in the State that issued the out-of-service order.

(iii) The order prohibiting the motor carrier from operating a CMV in interstate commerce shall remain in effect until the State determines that the carrier is fit.

(3) Any motor carrier that operates CMVs in violation of this section is subject to the penalty provisions of 49 U.S.C. 521(b) and Appendix B to part 386 of the FMCSRs.

§§ 385.15, 385.19, 385.113, 385.203, 385.303, 385.405, 385.415, 385.423 [Amended]

■ 16. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
385.15(c) introductory text ...	Chief Safety Officer, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington DC 20590.	Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.19(c)	Office of Data Analysis and Information Systems (MC RIS), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.	Federal Motor Carrier Safety Administration, Office of Information Technology (MC–RI), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.113(b)	Associate Administrator for Enforcement, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington DC 20590.	Associate Administrator for Enforcement and Program Delivery (MC–E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.203(c)	Office of Professional Development and Training, FMCSA, 400 7th Street, SW., Washington, DC 20590.	Federal Motor Carrier Safety Administration, Professional Development and Training Division (MC–MHT), 4600 N. Fairfax Drive, Suite 700, Arlington, Virginia 22203.
385.303	FMCSA, 400 7th Street SW., Washington, DC 20590 ...	Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.405(b)	Federal Motor Carrier Safety Administration, MC–PSDRIS, Room 8214, 400 7th Street, SW, Washington, DC 20590.	Federal Motor Carrier Safety Administration, Office of Information Technology (MC–RI), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.415(b)(2)	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, 400 Seventh Street, SW., Washington, DC 20590.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
385.423(c) introductory text	§§ 386.31 and 386.33	§§ 386.5, 386.6, and 386.8.
385.423(c)(1)(i)	FMCSA Chief Safety Officer, Federal Motor Carrier Safety Administration, c/o Adjudications Counsel (MC–PSDCC), 400 Seventh Street, SW., Washington, DC 20590.	Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001 Attention: Adjudications Counsel (MC–CC).
385.423(c)(1)(ii)	FMCSA Chief Counsel, Federal Motor Carrier Safety Administration, Office of the Chief Counsel, Room 8125, 400 Seventh Street, SW., Washington, DC 20590.	Chief Counsel (MC–CC), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

Appendix B to Part 385—[Amended]

■ 17. Amend Appendix B to Part 385—Explanation of Safety Rating Process, section VII, List of Acute and Critical Regulations, by:

■ a. Adding in numerical order a new entry for § 382.115(b), to read "§ 382.115(b) Failing to implement an alcohol and/or controlled substances testing program (foreign motor carrier) (acute).";

■ b. Amending the entry for § 382.303(a) by removing the words "and/or controlled substances"; and

■ c. Adding in numerical order a new entry for § 382.303(b), to read "§ 382.303(b) Failing to conduct post accident testing on driver for controlled substances (critical)."

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

■ 18. The authority citation for part 386 continues to read as follows:

Authority: 49 U.S.C. 521, 5123, 13301, 13902, 14915, 31132–31133, 31136, 31144, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; and 49 CFR 1.73.

§ 386.2 [Amended]

■ 19. In § 386.2, in the definition of "Assistant Administrator," remove "49 U.S.C. 113(d)" and add in its place "49 U.S.C. 113(e)".

§ 386.7 [Amended]

■ 20. Amend § 386.7(a) by:

■ a. Removing the paragraph designation "(a)".

■ b. Removing the words "U.S. DOT Dockets, 400 7th Street, SW., Room PL–401, Washington, DC 20590" and adding in their place the words "Department of Transportation Docket Management Facility, 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

■ 21. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.73.

■ 22. Revise § 387.303(b)(1) to read as follows:

§ 387.303 Security for the protection of the public: Minimum limits.

* * * * *

(b)(1) Motor carriers subject to § 387.301(a)(1) are required to have security for the required minimum limits as follows:

Passenger Carriers: Kind of Equipment	
Vehicle seating capacity	Minimum limit
(i) Any vehicle with a seating capacity of 16 passengers or more	$5,000,000
(ii) Any vehicle designed or used to transport more than 8 passengers (including the driver) for compensation	1,500,000

* * * * *

PART 388—COOPERATIVE AGREEMENTS WITH STATES

■ 23. The authority citation for part 388 continues to read as follows:

Authority: 49 U.S.C. 113 and 502; 49 CFR 1.73.

§ 388.1 [Amended]

■ 24. In § 388.1, remove the words "Washington, DC 20590" and add, in their place, the words "Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

■ 25. The authority citation for part 389 continues to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.*, 31101 *et seq.*, 31138, 31139, 31301 *et seq.*, and 31502; 42 U.S.C. 4917; and 49 CFR 1.73.

■ 26. Revise § 389.5 to read as follows:

§ 389.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rule making proceedings under § 389.25; and final rules are maintained at headquarters, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

(b) Except for material ordered withheld from the public under section 552(b) of title 5 of the United States Code, any person may examine docketed material in the Department of Transportation Docket Management Facility in the following ways:

(1) At headquarters at any time during regular business hours. Copies may be obtained upon payment of a fee.

(2) On the Web site *regulations.gov*, at any time, by using the uniform resources locator (URL) *http://www.regulations.gov*. Copies may be downloaded or printed.

§§ 389.31, 389.35 [Amended]

■ 27. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
389.31(b)(1) ...	Administrator, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
389.35(a)	Administrator, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 28. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 508, 13301, 13902, 31133, 31136, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 217, 229, Pub. L. 106–159, 113 Stat. 1748, 1767; and 49 CFR 1.73.

§ 390.19 [Amended]

■ 29. In § 390.19(c)(1), remove the words "Federal Motor Carrier Safety Administration, Data Analysis and Information Systems, MC–PSDRIS, 400 Seventh Street, SW., Washington, DC 20590" and add in their place the words "Federal Motor Carrier Safety Administration, Office of Information Technology (MC–RI), 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

§ 390.27 [Amended]

■ 30. Amend the table in § 390.27 by:

■ a. Removing the words from the "location of office" column indicated below in the middle column, and adding the words indicated in the right column.

Section	Remove	Add
390.27	City Crescent Building, #10 South Howard Street, Suite 4000, Baltimore, MD 21201–2819.	802 Cromwell Park Drive, Suite N, Glen Burnie, MD 21061.
390.27	61 Forsyth Street, SW., Suite 17T75, Atlanta, GA 30303–3104	1800 Century Boulevard, Suite 1700, Atlanta, GA 30345–3220.
390.27	201 Mission Street, Suite 2100, San Francisco, CA 94105–1838.	Golden Hills Office Centre, 12600 West Colfax Avenue, Suite B–300, Lakewood, CO 80215.

■ b. Removing "NM" from the "territory included" column for the Southern service center and adding "NM" to the "territory included" column for the Western service center in alphabetical order.

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

■ 31. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 322, 504, 508, 31133, 31136 and 31502; sec. 4007(b) of Pub. L. 102–240 (105 Stat. 2152); sec. 114, Pub. L. 103–311 (108 Stat. 1673, 1677); and 49 CFR 1.73.

§ 391.23 [Amended]

■ 32. In § 391.23(c)(4), remove the words "For a drivers" and add in their place the words "For drivers".

PART 392—DRIVING OF COMMERCIAL VEHICLES

■ 33. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 322, 31136, and 31502; section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.73.

§ 392.9 [Amended]

■ 34. In § 392.9(a)(1) remove the words "§§ 393.100 through 393.142 of this subchapter" and add in their place the words "§§ 393.100 through 393.136 of this subchapter."

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

■ 35. The authority citation for part 393 continues to read as follows:

Authority: 49 U.S.C. 322, 31136, and 31502; section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.73.

§ 393.7 [Amended]

■ 36. In § 393.7(c)(10)(i), remove the words "The Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations, 400 Seventh Street, SW., Washington, DC 20590" and add in their place the words "Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001".

§ 393.93 [Amended]

■ 37. In the footnote to § 393.93(a) remove the words "Nassif Building, 400 Seventh Street, SW., Washington, DC 20590" and add in their place the words "1200 New Jersey Ave., SE., Washington, DC 20590–0001".

PART 395—HOURS OF SERVICE OF DRIVERS

■ 38. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 504, 14122, 31133, 31136, 31502; sec. 229, Pub. L. 106–159, 113 Stat. 1748; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; and 49 CFR 1.73.

■ 39. In § 395.1, paragraph (g)(3) is revised to read as follows:

§ 395.1 Scope of the rules in this part.

* * * * *

(g) * * *

(3) *Passenger-carrying commercial motor vehicles.* A driver who is driving a passenger-carrying commercial motor vehicle that is equipped with a sleeper berth, as defined in §§ 395.2 and 393.76 of this subchapter, may accumulate the equivalent of 8 consecutive hours of off-duty time by taking a combination of at least 8 consecutive hours off-duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(i) Neither rest period is shorter than two hours;

(ii) The driving time in the period immediately before and after each rest period, when added together, does not exceed 10 hours:

(iii) The on-duty time in the period immediately before and after each rest period, when added together, does not include any driving time after the 15th hour; and

(iv) The driver may not return to driving subject to the normal limits under § 395.5 without taking at least 8 consecutive hours off duty, at least 8 consecutive hours in the sleeper berth, or a combination of at least 8 consecutive hours off duty and sleeper berth time.

* * * * *

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

■ 40. The authority citation for part 397 continues to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.73. Subpart A also issued under 49 U.S.C. 5103, 31136, 31502, and 49 CFR 1.53. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

§§ 397.71, 397.73, 397.75, 397.101, 397.103, 397.205, 397.213 [Amended]

■ 41. In the table below, for each section indicated in the left column, remove the words indicated in the middle column, and add the words indicated in the right column.

Section	Remove	Add
397.71(b)(1)(ii) footnote	Office of Enforcement and Compliance (MC–PSDECH), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
397.73(b)	FMCSA, Office of Enforcement and Compliance (MC–PSDECH), 400 7th St., SW., Washington, DC 20590–0001 by March 13, 1995.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
397.75(b)(1)	Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001. Attention: Office of the Chief Counsel (MC–PSDCC).	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001. Attention: Office of the Chief Counsel (MC–CC).
397.101(g) introductory text	Office of Enforcement and Compliance (MC–PSDECH), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
397.103(c)(1)	Office of Enforcement and Compliance (MC–PSDECH), Attn: National Hazardous Materials Route Registry, 400 Seventh Street, SW., Washington, DC 20590.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001. Attention: National Hazardous Materials Route Registry.
397.103(d)	Office of Enforcement and Compliance (MC–PSDECH), 400 Seventh Street, SW., Washington, DC 20590.	Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC–EC), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
397.205(b)(1)	Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Attention: Office of the Chief Counsel (MC–PSDCC), Hazardous Materials Preemption.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001. Attention: Office of the Chief Counsel, Enforcement and Litigation Division (MC–CCE).

Section	Remove	Add
397.213(b)(1)	Administrator, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Attention: Office of the Chief Counsel (MC–CC), Hazardous Materials Preemption Docket.	Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001. Attention: Office of the Chief Counsel, Enforcement and Litigation Division (MC–CCE).

Issued on: September 24, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–19196 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061109296–7009–02]

RIN 0648–XC67

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that State of Florida is transferring commercial bluefish quota to the State of New Jersey from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective September 26, 2007 through December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281–9244, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.160(f). The Regional Administrator is required to consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Florida has agreed to transfer 309,125 lb (140,160 kg) of its 2007 commercial quota to New Jersey. The Regional Administrator has determined that the criteria set forth in § 648.160(f)(1) have been met. The revised bluefish quotas for calendar year 2007 are: New Jersey, 1,579,605 lb (716,496 kg); and Florida, 553,488 lb (251,057 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: September 25, 2007.

James P. Burgess,

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

[FR Doc. 07–4832 Filed 9–26–07; 2:07 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070706268–7513–02]

RIN 0648–AV21

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 7

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 7 (Framework 7) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). Framework 7 will broaden the FMP stock status determination criteria for summer flounder, scup, and black sea bass, while maintaining objective and measurable criteria for identifying when the FMP stocks are overfished or approaching an overfished condition. The framework action will also establish acceptable categories of peer review for providing new or revised stock status determination criteria for the Council to use in its annual management measures for each species. This action is necessary to ensure that changes or modification to the stock status determination criteria constituting the best available peer reviewed scientific information are accessible for the management of these three species in as timely a manner as is possible. The intended effect of this action is to improve the timeliness and efficiency of incorporating the best available scientific information, consistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), into the management processes for the three species covered by the FMP.

DATES: This rule is effective October 31, 2007.

ADDRESSES: Copies of Framework Adjustment 7 are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790. The framework document is also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Background

The proposed rule for Framework 7 was published in the **Federal Register** on August 6, 2007 (72 FR 43587). A complete discussion of the development and rationale for the framework appeared in the preamble of the proposed rule and is not repeated here.

The current stock status determination criteria for summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), and black sea bass (*Centropristas striata*) are found in Amendment 12 to the FMP. Prior to the development of Framework 7, the Mid-Atlantic Fishery Management Council (Council) would be required to enact a framework adjustment or an amendment to the FMP to modify or replace these stock status determination criteria on a case-by-case basis.

Stock assessment information is updated annually as part of the management process that is used to derive annual catch limits (e.g., Total Allowable Landings (TAL)). The updated assessment information is utilized in the regulatory processes for these three species outlined at §§ 648.100, 648.120, and 648.140. These annual "turn of the crank" updates typically make no changes to the existing stock status determination criteria and are performed by groups with technical expertise, but are not typically subject to formal peer reviews nor are the stock status determination criteria often recommended to be changed.

Full assessments for these three stocks undergo periodic formal scientific peer review as part of the Northeast Fisheries Science Center's (NEFSC) Stock Assessment Workshop (SAW) and Stock Assessment Review Committee (SARC) process. These and other periodic formal assessments and subsequent peer reviews conducted for these stocks may result in recommendations to revise or use different stock status determination criteria as different or new approaches are applied to previously existing data, or to new, previously unexamined data. These types of assessments and peer reviews are distinguishable from the annual updates as they are often more comprehensive in nature and subject to rigorous scientific peer review that is consistent with the Office of Management and Budget (OMB) Information Quality Bulletin for Peer Review.

In the absence of the provisions contained in Framework 7 to more generally describe stock status determination criteria, when a full stock assessment and subsequent peer review recommended modification of existing or new stock status determination criteria for these species occurs it is likely that the new criteria would not be available for the Council's use for one or more annual management review cycles (i.e., a 1- to 2-year delay) while a framework adjustment or an amendment was developed and implemented.

The increased flexibility in defining the stock status determination criteria contained in Framework 7, consistent with National Standards 1 and 2, will allow the Council to utilize the best available peer reviewed science within the annual management measures development process, thereby improving the timeliness of incorporating the most current, best available stock status determination criteria.

Additionally, Framework 7 provides guidance on acceptable peer review practices, particularly for conducting reviews on stock assessments that generate modified or new stock status determination criteria that may not originate from the NEFSC SAW/SARC process, which is the primary stock assessment process for the Northeast Region. This guidance will help ensure that any such external review is sufficiently rigorous so that the resulting stock status determination advice may be considered by the Council as the best available science. In the unlikely circumstance that two or more sets of different but peer review accepted stock status determination criteria are available for the Council's use, the Council would still be required to adequately justify its final selection of one set over the other or others, consistent with national standard guidelines.

Framework 7 also provides guidance on how the Council may convene its Scientific and Statistical Committee (SSC) in the unlikely event that peer reviewed stock status determination criteria recommendations are unclear (i.e., lack of consensus from the reviewers), and how such information should be used in crafting management decisions should the peer review not specify such guidance. The SSC would, in such instances, only review information that lacks clarity; in instances where a formal peer review results in a consensus recommendation for use, that information is clearly the best available information and, as such, requires no additional review or input from the SSC prior to the Council using the information. Similarly, the SSC would not be needed to review peer review recommendations that reject modified or new stock status determination criteria because such information is not the best available (i.e., if new information is rejected in peer review, the existing stock status determination criteria remains the best available information).

Comments and Response

Two comments were received regarding the proposed rule. One comment did not address any aspect of the framework, instead raising questions about where commercial fisheries for summer flounder should be allowed to take place. As this comment is not directly related to the action of Framework 7, it is not responded to here.

Comment: The commenter asserted that implementation of Framework 7 would allow continued overfishing of summer flounder, scup, and black sea bass stocks and that the framework allows an unspecified, upward adjustment to quotas that would further exacerbate overfishing.

Response: NMFS acknowledges that all three species are currently overfished. Framework 7 makes no specific adjustment to either the current biological reference points used to define the status of these three stocks, nor does the framework make any adjustment to the management measures (e.g., TALs, recreational possession and size limits, etc.) used to eliminate overfishing in this or in future years. As outlined in the preamble to the final rule, Framework 7 is an administrative change focused on the mechanism through which the best available peer-reviewed information may be incorporated into the annual management process that sets quotas and other management measures that are aimed at ending overfishing and rebuilding stocks to their maximum sustainable yield levels. Annual management measures that are part of separate rulemaking are used to eliminate overfishing.

Furthermore, Framework 7 contains no explicit adjustments to quotas for any of the three species. If, in the future, revised or new stock status determination criteria are developed and vetted for use through the peer review process outlined in Framework 7, there may be adjustments, either upward or downward, to quotas as the results of the stock status and peer review dictate.

Classification

The Administrator, Northeast Region, NMFS, determined that Framework Adjustment 7 is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This rule has been determined to be not significant for purposes of Executive Order 12866.

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

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

Dated: September 26, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E7–19348 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070430095–7095–01]

RIN 0648–XB09

Fisheries Off West Coast States and in the Western Pacific; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #3 and #4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons, landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, Oregon and in the area from the U.S.-Canada Border to Leadbetter Point, Washington was modified by two inseason actions. Inseason action #3 in the area from Leadbetter Point to the U.S.-Canada Border decreased the landing and possession limit from 60 to 50 Chinook per vessel per open period. Inseason action #3 also closed commercial fishing in the area from the U.S.-Canada border to Cape Falcon Oregon on June 30, 2007. Inseason action #4 modified the landing and possession limit in the area from Leadbetter Point, Washington to the U.S.-Canada border for Chinook from 30 to 20 fish per vessel per open period, Saturday through Tuesday. All other restrictions and regulations remained in effect as announced for the 2007 Ocean Salmon Fisheries and previous inseason actions.

DATES: Inseason action #3 in the area from Leadbetter Point to the U.S.-Canada border was effective from 0001 hours local time (l.t.) Saturday June 23 through 2359 hours l.t. Tuesday June 26, 2007. Also, inseason action #3 in the area from the U.S.-Canada border to Cape Falcon, Oregon was effective 0001 hours l.t. Saturday, June 30, 2007. Inseason action #4 was effective 0001 hours l.t. Saturday, July 28, 2007.

Comments will be accepted through October 16, 2007.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376. Comments can also be submitted via e-mail at the *2007salmonIA3__4.nwr@noaa.gov* address, or on the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include 0648–XB09 in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey 206–526–4323.

SUPPLEMENTARY INFORMATION: In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the commercial fisheries in the area from the U.S.-Canada border to Cape Falcon, Oregon, and in the area from the U.S.-Canada border to Leadbetter Point, Washington. This area was open May 1 through earlier of June 30 or 10,850 Chinook quota. Beginning May 12, 2007 this area was open Saturday through Tuesday with a landing and possession limit of 60 Chinook per vessel for each four-day open period north of Leadbetter Point, for all salmon except coho.

On June 21, 2007, for Inseason action #3, and July 28, 2007 for Inseason action #4 the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. Inseason action #3 was taken because catch data indicated a reduction in the landing and possession limit would provide the opportunity for the full quota to be caught within the announced season. Eliminating the last day during the May-June open period also provided the opportunity for the next open period to begin within the quota. Inseason action #4 was taken because catch data indicated a reduction in the landing and possession limit would the opportunity for the full quota to be caught within the announced season.

As a result, on June 21, 2007, the states recommended, and the RA concurred, that Inseason action #3 would be effective in the area from Leadbetter Point to the U.S.-Canada border from Saturday June 23 through Tuesday June 26, 2007. This action made the landing and possession limit 50 Chinook per vessel per open period. This action also closed the area from the U.S.-Canada border to Cape Falcon Oregon to commercial salmon fishing on June 30. Also, on Friday July 27, 2007 the states recommended, and the RA concurred, that Inseason action #4 in the area from Leadbetter Point to the U.S.-Canada border would be effective Saturday July 28, 2007. This action reduced the landing and possession limit for Chinook to 20 fish per vessel per open period. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were

available. The AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily restricting the fishery. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 25, 2007.

James P. Burgess,

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

[FR Doc. E7–19374 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070430095–7095–01]

RIN 0648–XC69

Fisheries Off West Coast States and in the Western Pacific; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #5, #6 and #7

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons, landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces three inseason actions in the ocean salmon fisheries. Inseason action #5, in the commercial fishery in the area from the Humbug Mountain, Oregon, to the Oregon-California Border (Oregon KMZ subarea), closed the fishery effective Tuesday, August 14, 2007. Inseason action #6, in the recreational fishery in the area from the U.S.-Canada Border to Leadbetter Point, Washington, (Neah Bay, La Push and Westport subareas), expanded the fishing days from 2 to 7 days per week effective Friday, August 17, 2007. Inseason action #7, in the commercial fishery from Cape Falcon, Oregon, to Humbug Mountain, Oregon, closed the non-selective coho fishery effective 11:59 p.m. Monday, August 20, 2007. All other restrictions and regulations remained in effect as announced for the 2007 Ocean Salmon Fisheries and previous inseason actions.

DATES: Inseason action #5 was effective at 1200 hours local time (l.t.) Tuesday, August 14, 2007. Inseason action #6 was effective 0001 hours l.t. Friday, August 17, 2007. Inseason action #7 was effective 1159 hours l.t. Monday, August 20, 2007. Comments will be accepted through October 16, 2007.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376. Comments can also be submitted via e-mail at the *2007salmonIA567.nwr@noaa.gov* address, or on the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include 0648–XC69 in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey 206–526–4323.

SUPPLEMENTARY INFORMATION: In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the commercial fisheries in the area from Cape Falcon, Oregon, to the Oregon-California Border and recreational fisheries from the U.S.-Canada border to Humbug Mountain, Oregon. Commercial fisheries in the area from Humbug Mountain to the Oregon-California Border were open from August 1 through the earlier of August 29, or the attainment of a 1,800–Chinook quota. Fishing was open for all salmon except coho. The commercial non-selective coho fishery in the area from Cape Falcon, Oregon, to Humbug Mountain, Oregon, was open August 15 through the earlier of September 13 or the attainment of a 10,000 non-mark-selective coho quota. The non-selective coho quota of 10,000 includes the entire area from Cape Falcon to Humbug Mountain. The recreational fishery from the U.S.-Canada border to Leadbetter Point, Washington, was open 2 days per week with the Neah Bay and La Push areas being open Tuesday through Saturday and the Westport area open Sunday through Thursday.

On August 13, 2007, for inseason action #5, August 15, 2007, for inseason action #6, and August 17, 2007 for inseason action #7 the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, California Department of Fish and Game and Oregon Department of Fish and Wildlife. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. Inseason action #5 was taken because the quota in the area was projected to be met and in order to operate the fishery within the 2007 regulations 2007 the fishery had to be closed. Inseason action #6 was taken because catch data indicated an increase in the number of days allowed in the fishery would attempt to provide the opportunity for the full quota to be taken within the scheduled season. Inseason action #7 was taken because the non-selective fishery was approaching the quota and to attempt to ensure the quota was not exceeded the fishery had to be closed.

As a result, on August 13, 15, and 17, 2007, the states recommended, and the RA concurred: Inseason action #5 would close the commercial fishery in the area from the Humbug Mountain, Oregon to the Oregon-California Border, effective Tuesday, August 14, 2007. Inseason action #6 in the recreational fishery would increase the number of fishing days per period from 2 to 7 days per period in the area from the U.S.-Canada Border to Leadbetter Point, Washington, effective Friday, August 17, 2007. Inseason action #7 in the commercial non-selective coho fishery would close from Cape Falcon, Oreon, to Humbug Mountain, Oregon, effective 11:59 p.m. Monday August 20, 2007. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such

notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily restricting the fishery. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 25, 2007.

James P. Burgess,

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

[FR Doc. E7–19368 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070430095–7095–01]

RIN 0648–XC71

Fisheries Off West Coast States and in the Western Pacific; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #8 and #9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons, landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces two inseason actions in the ocean salmon fisheries. Inseason action #8 modified the recreational fishery from Queets River, Washington, to Cape Falcon, Oregon (Westport and Columbia River subareas)and inseason action #9 modified the commercial fishery from Cape Falcon, Oregon, to Humbug Mountain, Oregon. Inseason action #8 transferred 5000 coho from the Westport subarea to the Columbia River subarea with a resulting increase in the Columbia river subarea quota of 4250 coho. Inseason action #9 reopened the non-selective coho fishery from August 25–28, 2007. All other restrictions and regulations remained in effect as announced for the 2007 ocean salmon fisheries and previous inseason actions.

DATES: Inseason action #8 was effective at 0001 hours local time (l.t.) Thursday, August 23, 2007. Inseason action #9 was effective from 0001 l.t. Saturday, August 25 through Tuesday August 28, 2007.

Comments will be accepted through October 16, 2007.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376. Comments can also be submitted via e-mail at the *2007salmonIA89.nwr@noaa.gov* address, or on the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include 0648–XC71 in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey 206–526–4323.

SUPPLEMENTARY INFORMATION: In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the commercial fisheries in the area from Cape Falcon, Oregon, to Humbug Mountain, Oregon, and recreational fisheries from Queets River, Washington, to Cape Falcon, Oregon. The commercial non-selective coho fishery in the area from Cape Falcon, Oregon, to Humbug Mountain, Oregon, was open August 15 through the earlier of September 13 or the attainment of a 10,000 non-mark-selective coho quota. The non-selective coho quota of 10,000 includes the entire area from Cape Falcon to Humbug Mountain. The recreational fishery in the Westport subarea had a 43,510 marked coho subarea quota. The recreational fishery in the Columbia River subarea had a 58,800 marked coho subarea quota.

On August 22, 2007, for inseason action #8 and #9 the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council; Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. Inseason action #8 was taken because the coho quota in the Columbia river subarea was projected to be met and in order to operate the fishery within the 2007 regulations a transfer from the Westport area was necessary. Inseason action #9 was taken because catch data indicated there was still quota available to be taken within the scheduled season, this fishery was previously closed because the quota was projected to be met. These action attempted to provide the opportunity for the full quota to be taken within the scheduled season.

As a result, on August 22, 2007, the states recommended, and the RA concurred that inseason action #8 would be effective Thursday, August 23, 2007 with a transfer of 5,000 coho from the Westport subarea resulting in an increase in the Columbia River subarea quota of 4,250. This modified the Westport subarea quota to 38,510 and the Columbia River subarea quota to 63,050. The Columbia River subarea was also closed effective 11:59 p.m. Saturday, August 25, 2007. Inseason action #9 reopened the non-selective coho fishery effective from Saturday, August 25 to Tuesday, August 28, with a landing and possession limit of 50 coho per vessel per week, as previously announced. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily restricting the fishery. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 25, 2007.

James P. Burgess,

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

[FR Doc. E7–19358 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070430095–7095–01]

RIN 0648–XC77

Fisheries Off West Coast States and in the Western Pacific; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #10 and #11.

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons, landing and possession limits; request for comments.

SUMMARY: NOAA Fisheries announces two inseason actions in the ocean salmon fisheries. Inseason action #10 modified the recreational fishery from Queets River, Washington, to Cape Falcon, Oregon (Westport and Columbia River subareas)and inseason action #11 modified the commercial fishery from the Oregon-California border to Humboldt South Jetty, California (California KMZ subarea). Inseason action #10 transferred 10000 coho from the Westport subarea to the Columbia River subarea with a resulting increase in the Columbia river subarea coho quota of 8400. Inseason action #11 closed the California KMZ subarea to ocean salmon fishing effective 11:59 p.m. Wednesday, September 12, 2007. All other restrictions and regulations remained in effect as announced for the 2007 ocean salmon fisheries and previous inseason actions.

DATES: Inseason action #10 was effective at 0001 hours local time (l.t.) Sunday, September 2, 2007. Inseason action #9 was effective at 11:59 l.t. Wednesday, September 12, 2007.

Comments will be accepted through October 16, 2007.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376. Comments can also be submitted via e-mail at the *2007salmonIA89.nwr@noaa.gov* address, or on the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include 0648–XC71 in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Sarah McAvinchey 206–526–4323.

SUPPLEMENTARY INFORMATION: In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the recreational fisheries from Queets River, Washington, to Cape Falcon, Oregon and commercial fisheries from the Oregon-California border to Humboldt South Jetty. The recreational fishery in the Westport subarea had a 43,510 marked coho subarea quota. The recreational fishery in the Columbia River subarea had a 58,800 marked coho subarea quota. The commercial fishery in the California KMZ subarea was open September 10 through the earlier of September 30, or the attainment of the 6,000 Chinook quota.

On August 30, 2007, for inseason action #10 and September 12, 2007, for #11, the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife and California Department of Fish and Game. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. Inseason action #10 was taken because the coho quota in the Columbia river subarea was projected to be met and in order to operate the fishery within the 2007 regulations a transfer from the Westport area was necessary. Inseason action #11 was taken because catch data indicated the quota was projected to be met well before the closing date in the area. The intent of these actions was to provide the opportunity for the full quota to be taken within the scheduled season.

As a result, on August 30, 2007, for inseason #10 and September 12, 2007, for inseason #11, the states recommended, and the RA concurred that inseason action #8 would be effective Sunday, September 23, 2007, with a with a transfer of 10,000 coho from the Westport subarea resulting in an increase in the Columbia River subarea quota of 8,400. This modified the Westport subarea quota to 28,510 and the Columbia River subarea quota to 71,450. Inseason action #11 closed the area from the U.S.-Canada border to Humboldt South Jetty, California to commercial ocean salmon fishing. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(I).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to

other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily restricting the fishery. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: September 25, 2007.

James P. Burgess,

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

[FR Doc. E7–19367 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 189
Monday, October 1, 2007

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.

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 806 and 808

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission (SRBC).

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed rules that would amend project review regulations to clarify the definition of "agricultural water use" and to provide a qualified exception to the consumptive use approval requirements for agricultural water use projects. In addition, this proposed rule would make a technical correction to an error in the "Authority" citation for Part 808.

DATES: The Commission has scheduled a public hearing on the proposed rules on Wednesday, November 7, 2007, at 2 p.m. Comments on these proposed rules may be submitted to the SRBC on or before November 15, 2007.

The location of the public hearing is listed in the addresses section of this document. Additionally, individuals wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

ADDRESSES: Comments may be mailed to: Mr. Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391, or by e-mail to *rcairo@srbc.net*.

The public hearing will be held in the Goddard Conference Room, Pennsylvania Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, 717–238–0423; fax: 717–238–2436; e-mail: *rcairo@srbc.net*. Also, for further information on the proposed rulemaking, visit the Commission's Web site at *http://www.srbc.net*.

SUPPLEMENTARY INFORMATION:

Background and Purpose of Amendments

The SRBC adopted final rulemaking on December 5, 2006, published at 71 FR 78570, December 29, 2006 establishing: (1) The scope and procedures for review and approval of projects under Section 3.10 of the Susquehanna River Basin Compact, Pub. L. 91–575; 83 Stat. 1509 *et seq.* (the compact); (2) special standards under Section 3.4(2) of the compact governing water withdrawals, consumptive use of water; diversions of the basin's waters, water conservation, and water use registration; and (3) procedures for hearings and enforcement actions.

The December 2006 rulemaking made extensive revisions to project review regulations that were promulgated in May 1995. Since 1995, SRBC has continued to suspend the application of its consumptive use regulation to agricultural water uses pending the implementation of a mitigation method that is more suited to agriculture's unique circumstances.

The Commission's member states have taken definitive steps to support projects that will provide storage and release of water to mitigate agricultural water use in their jurisdictions and thus satisfy the standards for consumptive use mitigation set forth in 18 CFR 806.22. The proposed rulemaking would amend 18 CFR 806.4(a)(1) to provide an exception for agricultural water use projects from the consumptive use review and approval requirements of 18 CFR 806.4(a)(1) and (3), unless water is diverted for use beyond lands that are at least partially in the basin, and provided the Commission makes a determination that the state-sponsored projects are sufficient to meet the consumptive use mitigation standards contained in 18 CFR 806.22.

A second amendment clarifies the definition of "agricultural water use" in 18 CFR 806.3, 806.4 and 806.6 by inserting the word "products" after the word "turf." This will clarify that the maintenance of turf grass as part of a project or facility, such as a golf course, does not constitute an agricultural water use. Only the raising of turf products for sale such as sod would constitute an agricultural water use with this clarification.

A third amendment corrects an error made as part of the December 5, 2006 rulemaking in the "Authority" citation to Part 808 by replacing the erroneous Sec. 3.5(9) with the correct Sec. 3.4(9).

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

For the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR parts 806 and 808 and as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

1. The authority citation for part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5 (5), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

2. In § 806.3, revise the definition of "agricultural water use" to read as follows:

§ 806.3 Definitions.

* * * * *

Agricultural water use. A water use associated primarily with the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock and poultry. The term shall include aquaculture.

* * * * *

3. In § 806.4, revise paragraphs (a)(1) introductory text, (a)(3) introductory text and (b)(3) to read as follows:

§ 806.4 Projects requiring review and approval.

(a) * * *

(1) *Consumptive use of water.* Any consumptive use project described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.22, and, to the extent that it involves a withdrawal from groundwater or surface water, shall also be subject to the standards set forth in § 806.23. Except to the extent that they involve the diversion of the waters of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section. Provided the commission

determines that low flow augmentation projects sponsored by the commission's member states provide sufficient mitigation for agricultural water use to meet the standards set forth in § 806.22, and except as otherwise provided below, agricultural water use projects shall not be subject to the requirements of this paragraph (a)(1).

Notwithstanding the foregoing, an agricultural water use project involving a diversion of the waters of the basin shall be subject to such requirements unless the property, or contiguous parcels of property, upon which the agricultural water use project occurs is located at least partially within the basin.

* * * * *

(3) *Diversions.* Except with respect to agricultural water use projects not subject to the requirements of paragraph (a)(1), the projects described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.24. The project sponsors of out-of-basin diversions shall also comply with all applicable requirements of this part relating to consumptive uses and withdrawals.

* * * * *

(b) * * *

(3) Transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock, or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

* * * * *

3. In § 806.6, revise paragraph (b)(3) to read as follows:

§ 806.6 Transfers of approval.

* * * * *

(b) * * *

(3) A project involving the transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

* * * * *

PART 808—HEARINGS AND ENFORCEMENT ACTIONS

5. Revise the authority citation for part 808 to read as follows:

Authority: Secs. 3.4(9), 3.5 (5), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

Dated: September 21, 2007.

Paul O. Swartz,

Executive Director.

[FR Doc. E7–19290 Filed 9–28–07; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1314

[Docket No. DEA–298P]

RIN 1117–AB13

Combat Methamphetamine Epidemic Act of 2005: Fee for Self-Certification for Regulated Sellers of Scheduled Listed Chemical Products

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of its implementation of the Combat Methamphetamine Epidemic Act of 2005 (CMEA), "regulated sellers" or persons and entities selling scheduled listed chemical products at retail locations are required to self-certify with DEA relative to certain requirements of the CMEA. The Diversion Control Program is required to recover the full costs of the certification process, under the Controlled Substances Act; as such the DEA is proposing to charge regulated sellers, who are not DEA registrants, a fee for self-certification.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before November 30, 2007.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–298" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov*. Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

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* and in the DEA's public docket. 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 or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket 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 or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also 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 online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and posted online and placed in the DEA's public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

FOR FURTHER INFORMATION CONTACT: Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Background

DEA implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 to 1399. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical, scientific, research, and industrial purposes and to deter the diversion of controlled substances to illegal purposes. The CSA mandates that DEA establish a closed system of control for manufacturing, distributing, and dispensing controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt) and comply with the applicable requirements for the activity. The CSA as amended also requires DEA to regulate the manufacture and distribution of chemicals that may be used to manufacture controlled substances illegally. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances.

On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA), which is Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177). The CMEA amends the CSA to change the regulations for selling nonprescription products that contain ephedrine, pseudoephedrine, phenylpropanolamine, their salts, optical isomers, and salts of optical isomers. DEA implemented the retail provisions of CMEA through an Interim Rule entitled "Retail Sales of Scheduled Listed Chemical Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products" published in the **Federal Register** September 26, 2006 (71 FR 56008, corrected at 71 FR 60609, October 13, 2006). In that Interim Rule, DEA extensively discussed its intent to publish this Notice of Proposed Rulemaking, including the various costs to be included in the certification fee and the methodology for calculating fees (see specifically 71 FR 56013–56015, corrected at 71 FR 60609, October 13, 2006).

Section 886a of the Controlled Substances Act (CSA) defines the Diversion Control Program as "the controlled substance and chemical diversion control activities of the Drug Enforcement Administration," which are further defined as the "activities related to the registration and control of the manufacture, distribution and dispensing, importation and exportation of controlled substances and listed chemicals." The CSA also states that reimbursements from the Diversion Control Fee Account " * * * shall be made without distinguishing between expenses related to controlled substances activities and expenses related to chemical activities." [Pub. L. 108–447 Consolidated Appropriations Act of 2005]

In addition, Section 111(b)(3) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102–395), codified at 21 U.S.C. 886a(3), requires that "fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program."

The CMEA of 2005 implements new requirements governing the sale of scheduled listed chemical products, defined as nonprescription drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine. As part of these requirements, CMEA requires self-certification for all regulated sellers of scheduled listed chemical products, defining regulated seller to mean a retail distributor (including a pharmacy and mobile retail vendors). The CMEA requires that on and after September 30, 2006, a regulated seller or any of its employees must not sell scheduled listed chemical products unless it has self-certified to DEA, through DEA's Web site. The certification requires the regulated seller to confirm the following:

- Its employees who will be engaged in the sale of scheduled listed chemical products have undergone training regarding provisions of CMEA.
- Records of the training are maintained.
- Daily sales to individuals do not exceed 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine. (Mobile retail vendors must also confirm that sales to an individual in a 30-day period do not exceed 7.5 grams.)
- Nonliquid forms are packaged as required.
- Scheduled listed chemical products are stored behind the counter or in a locked cabinet.
- A written or electronic logbook containing the required information on sales of these products is maintained.
- The logbook information will be disclosed only to federal, State, or local law enforcement and only to ensure compliance with Title 21 of the United States Code or to facilitate a product recall.

The seller must train its employees and certify before either the seller or individual employees may sell scheduled listed chemical products. The certification is subject to the provisions of 18 U.S.C. 1001. A regulated seller who knowingly or willfully certifies to facts that are not true is subject to fines and imprisonment.

The CMEA also exempts retail distributors from registration requirements under the CSA; however, in practice, retail distributors have not previously registered with DEA because they limited their sales to below-threshold quantities and to products sold in blister packs.

Self-Certification Fee

DEA considers the self-certification requirements of the CMEA to fall within the legal definition of control as governed by Section 886a of the CSA (see above). Accordingly, these activities fall under the general operation of the Diversion Control Program and are subject to the requirements of the Appropriations Act of 1993 that mandates that fees charged shall be set at a level that ensures the recovery of the full costs of operating the various aspects of the Diversion Control Program. The self-certification requirements of CMEA fall under these "various aspects." Therefore, DEA is hereby proposing to charge a fee for each self-certification to comply with these statutory requirements to ensure that the full costs of operating the Diversion Control Program are covered by fees as required by law.

The fee for certification will cover all associated costs, including the initial one-time costs of setting up the certification program, web site, and programmatic infrastructure, as well as ongoing costs associated with the provision of certifications, call center support, maintenance of the self-certification system, printing costs for certificates that regulated sellers cannot print, financial management, and other related costs. DEA has established a training program for its employees to implement new requirements of the CMEA, and must establish the infrastructure necessary for the self-

certification program. Required systems include creation of history, renewal cycles, investigative tools, business validation rules, and development and maintenance of the self-certification Web site.

Other DEA activities associated with self-certification and compliance with CMEA include enforcement and judicial proceedings. CMEA gives DEA the authority to prohibit a regulated seller from selling scheduled listed chemical products for certain violations of CMEA. If DEA issues an order to a regulated seller prohibiting that regulated seller from selling scheduled listed chemical products, the regulated seller is entitled to an administrative hearing if the seller files a timely request for a hearing. The costs of these enforcement activities and the subsequent proceedings must be supported through fees pursuant to the above described statutory requirements. However, these costs *are not* reflected in the proposed self-certification fees contained in this rulemaking, as DEA is uncertain of their utilization. Once DEA is able to determine the frequency of use of these tools and their associated costs, these costs will be recovered through fees associated with self-certification as established in future rulemakings.

Regulated sellers submit a certification online via the DEA self-certification web site and will pay a fee by credit card at the time of each self-certification. DEA calculated this fee based on estimated set-up costs in Fiscal Year 2006 ($96,000) and Fiscal Year 2007 operating costs ($1,341,000) totaling $1,437,000, as shown in Table 1 below. The initial systems development and set-up costs will not be repeated in subsequent years. The operational and maintenance costs for Fiscal year 2008 are estimated to be $811,000. Thus, the total amount to be recovered for Fiscal Years 2006 through 2008 is $2,248,000. Total annual costs associated with operating the certification process include staff costs, operational and administrative costs, web hosting, monitoring and maintenance costs (including hardware and software maintenance), and annual inflation adjustments.

To calculate the fee, DEA divided the total costs for Fiscal Years 2006 through 2008 by the anticipated population of affected regulated sellers of 73,000. As of April 10, 2007, 72,258 retailers had self-certified that they were in compliance with the rule.

All costs are shown in the table below for Fiscal Years 2006 through 2008. The self-certification costs reflect the cost per each self-certification per each facility as required by CMEA.

To minimize administrative and collection burdens, it is DEA's policy to round all fees up to the nearest dollar when calculating fees. This is done to ensure that the full cost of the Diversion Control Program is collected as mandated by statute. Therefore, the fee for self-certifications will be $16.00.

TABLE 1.—SELF-CERTIFICATION COSTS AND FEE CALCULATION

Project detail	2006*	2007	2008	Total cost
Planning	$4,000	$37,000	$38,000	$79,000
Design, Development, Deployment	44,000	704,000	72,000	820,000
Call Center, Finance, Mail Room, Printing	36,000	426,000	433,000	895,000
Maintenance	12,000	174,000	177,000	363,000
Enhancements	.....	.....	91,000	91,000
Total	96,000	1,341,000	811,000	2,248,000
Population	.....	73,000	73,000	.....
Cost per certification	.....	19.68	11.11	15.40

*2006 is only 1 month of operations.

PLANNING	5 ⌐ FTE, 3% OF THEIR TIME, 1 − DI 5% OF THEIR TIME.
Design, Development, Deployment	10% allocation of effort.
Creation of Registration System*	2 months planning; 6 months development; 2 months testing, Q/A, CM, C&A, deployment.
Operations Support Operations include	Call Center, finance, distribution & printing.

* Registration system includes creation of history, renewal cycles, investigative tools, business validation rules.

TABLE 2.—CALCULATION OF FEE

Cost for FY2006–2008	Number estimated to self-certify	Self-certification and one renewal		Fee for self-certification
$2,248,000	/(73,000	*2)	= $15.40	= $16.00

Methodology Regarding Establishment of Fee

CMEA specifically states that a separate certification is required for each separate location at which scheduled listed chemical products are sold. As such, mobile retail vendors must certify for each location at which sales transactions occur, e.g., a fairground one week, a convention center the next, etc. Similarly, large corporate chains such as chain pharmacies must certify for each individual location at which scheduled listed chemical products are sold. Each location must self-certify for itself. In its Interim Final Rule implementing the retail provisions of the CMEA (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006), DEA requested comments on who should be authorized to sign the self-certification for the regulated seller, given that the person must be in a position to confirm all the self-certification requirements listed above and should be authorized to sign documents for the regulated seller.

Additionally, CMEA mandates self-certification for all regulated sellers irrespective of the extent such entities or persons handle scheduled listed chemical products. Accordingly, DEA may not alter the fee structure to account for the extent to which self-certifiers handle these products. An example would include adjusting self-certification fees according to sales volume or size of establishment.

Finally, as mentioned elsewhere in this NPRM, CMEA requires that all persons selling scheduled listed chemical products at retail self-certify to DEA, regardless of whether those persons are registered with DEA to handle controlled substances or List I chemicals.

In a separate Interim Final Rule (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006) implementing the retail provisions of the CMEA, DEA conducted an extensive Economic Impact Analysis in which it estimated approximately 89,000 persons would self-certify to sell scheduled listed chemical products at retail. A brief discussion of this Economic Impact Analysis is found below in this Notice of Proposed Rulemaking. DEA has used this Economic Impact Analysis in the establishment of fees, as well as actual information regarding the number of persons self-certified to sell scheduled listed chemical products, dividing the total costs of self-certification by the estimated number of persons who will self-certify.

CMEA required persons wishing to continue to sell scheduled listed chemical products at retail to self-certify with DEA prior to September 30, 2006. In its Interim Final Rule establishing self-certification and other requirements, DEA established that certification must be renewed annually. However, to spread the population of self-certifiers throughout the year (i.e., to prevent all persons who are self-certified from continuing to renew in the month of September every year), DEA in its Interim Final Rule indicated that it will assign self-certifiers to one of 12 groups. Each group will have an expiration date that will be the last day of a month from 12 to 23 months after the initial filing. The expiration date is contained in each person's or entity's self-certification certificate. After the second certification, regulated sellers will be required to certify annually. Thus, between September 30, 2006, and the end of Fiscal Year 2008 on September 30, 2008, all self-certifiers will have initially self-certified and renewed their certification once, assuming they continue to sell scheduled listed chemical products at retail.

In implementing the self-certification fee, DEA must comply with the CMEA as well as the Consolidated Appropriations Act of 1993 that requires that fees charged shall be set at a level that ensures the recovery of the full costs of operating the various aspects of the Diversion Control Program. In developing the self-certification program and fee structure, DEA considered two options. The first option would be to set an annual fee for certification. However, this methodology would not allow DEA to recover the full costs of the program for certification from fees, as persons selling scheduled listed chemical products will have initially self-certified prior to establishment of the fee. Therefore, DEA decided to establish a fixed fee for Fiscal Years 2006 through 2008, based on the total estimated operating costs of the self-certification process for those Fiscal Years and the anticipated population of regulated sellers that will be required to self-certify. This approach offers a clear fixed fee for this period to entities required to self-certify.

To relieve administrative burdens for the regulated industry and DEA, and for simplicity in accounting and auditing, DEA has rounded these fee calculations up to the nearest dollar. The annual self-certification fee will be clearly defined on the self-certification web site. However, in setting this fee DEA notes that it is based on assumptions about the total number of regulated sellers who will be required to certify. Should the total number of regulated sellers be significantly more or less than 73,000, DEA may adjust the certification fee as appropriate through future rulemakings. Also, as noted above, this fee does not account for certain enforcement and judicial costs associated with self-certification. These costs *are not* reflected in the proposed self-certification fees contained in this rulemaking, as DEA is uncertain of their utilization. Once DEA is able to determine the frequency of use of these tools and their associated costs, these costs will be recovered through fees associated with self-certification as established in future rulemakings. In any case, DEA will not exceed its operating budget as authorized by Congress.

In implementing this fee, DEA also notes that many of the affected regulated sellers are already registered with DEA to dispense controlled substances and therefore already pay a registration/reregistration fee to DEA. The CSA requires that all manufacturers, importers, exporters, distributors and dispensers (e.g., pharmacies) of controlled substances, and List I chemicals obtain an annual registration with DEA. This process also is under the administration of the Diversion Control Program. For example, pharmacies registered with the DEA to distribute controlled substances pay a three-year registration fee of $551 (an annual equivalent of $184). This annual (or three-year) registration fee supports the operations of the Diversion Control Program, including program priorities and field management oversight; coordination of major investigations; drafting and promulgating of regulations relating to the enforcement of the CSA and other legislation; advice and leadership on state legislation/regulation; legal control of drugs and chemicals not previously under federal control; control of imports and exports of licit controlled substances and chemicals; program resource planning and allocation, and investigation, inspection, and cooperative efforts with other law enforcement entities and the regulated industries, among other activities.

DEA considered several options regarding charging fees to registrants and to the new non-registrants regulated pursuant to the Combat Methamphetamine Epidemic Act of 2005. DEA invites comment on its proposed decision regarding the structuring of self-certification fees. DEA considered charging the full costs of the self-certification aspects of the Diversion Control Program only to registrants. However, this would mean that registrants would subsidize the self-certification of non-registrants, and any costs attendant with those self-certifications. Alternatively, DEA could charge only non-registrants for the costs of the self-certification aspects of the Diversion Control Program, as registrants already pay fees to support the Program. However, if DEA were to charge the $2,248,000 cost of the self-certification aspects of the Diversion Control Program to the approximately 18,000 non-registrants, this would result in a renewal fee of $63 per non-registrant self-certifier. As DEA noted previously, both registrants and non-registrants are required to self-certify. Therefore, DEA has elected to spread the costs of self-certification across all registrants, but to waive the self-certification fee for persons registered with DEA.

Additionally, in the course of developing the proposed fee structure, DEA considered an alternative of basing the level of the fee on the size of a business or the volume of the business's sales. Such a fee structure, for example, would allow small businesses below a certain threshold to self-certify without being charged the proposed $16 self-certification fee. In analyzing this option, DEA considered whether the $16 fee would pose a significant hurdle for small businesses and might potentially reduce access to these products if small businesses opted to discontinue carrying scheduled listed

chemical products due to the annual cost of self-certification. Such a fee schedule would need to distinguish between small retailers who sell limited quantities and similarly-sized retailers who, based on their unusual sales volume, may present an increased concern about drug diversion.

However, after careful consideration of this alternative, DEA was concerned that, while it may have the statutory authority to waive a fee under certain circumstances, the agency may not have sufficient statutory authority to collect the kinds of information needed to administer the type of waiver discussed above. DEA would first need to determine an equitable threshold for the size of business or volume of sales below which a waiver would be granted. As DEA does not have historical information regarding size of business or volume of sales, and is not aware of a source of such data, such a determination seems difficult. Further, DEA has concerns about what statute, if any, would provide statutory authority to collect sales data, or other similar information, from persons self-certifying to handle scheduled listed chemical products. If DEA has no statutory authority to collect sales or other information necessary to enforce the fee waiver, then it cannot verify sales or other information on which a waiver would potentially be based, and would have difficulty verifying the veracity of any waiver provisions. For those reasons, DEA has initially proposed not to waive the fee for self-certification based on size of business or volume of sales. DEA invites comment on its interpretation regarding its statutory authority and how to structure self-certification fees in the final rule. In addition, DEA would welcome information about what sort of data might be available to enforce a different fee schedule for small businesses.

That said, DEA notes that while lowering or eliminating the fee depending on the size of a business would reduce the financial burden on small businesses, DEA would have to increase the proposed fee charged to the remaining covered entities to fully fund the self-certification program. In addition to the cost of the proposed self-certification fee, regulated sellers are currently required under existing DEA regulations to maintain a logbook, store covered products behind the counter, and train staff concerning sales and recordkeeping. Because of the costs associated with these existing requirements, DEA currently does not anticipate that the proposed $16 self-certification fee will result in a significant incremental increase in the relative costs of the program for entities carrying covered products, and thus does not currently believe the fee will pose a barrier to access. DEA encourages commenters to provide information on this issue.

While existing registrants are required by the CMEA to self-certify with DEA if selling scheduled listed chemical products, the self-certification fee will be waived upon submission of an active DEA registration number because these registrants already pay an annual fee (or annual fee equivalent) to support the operations of the Diversion Control Program. DEA requests comments on this aspect of this rulemaking.

Regulatory Certifications

Regulatory Flexibility Act

This rulemaking has been drafted in accordance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of DEA hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

The proposed rule will affect a substantial number of small entities, but will not have a significant economic effect. The fee is minimal—$16 a year. In its Interim Final Rule implementing the retail provisions of the CMEA (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006), DEA estimated that the other implementation costs associated with the retail sale of scheduled listed chemical products were also low. DEA estimated that the time required for training sales personnel and filing the self-certification is less than three hours a year. Many of the smallest firms, which are likely to be convenience stores, may limit their sales to single packages of pseudoephedrine where the package contains not more than 60 milligrams. Such sales are exempt from the recordkeeping requirements of the CMEA, which would eliminate the need for logbooks and checking of identification. There will be some cost to move the product behind the counter, but these moves will make open display areas available for other products; the shelf-space costs will, therefore, be offset to some degree. For firms that conduct sales transactions subject to all of the CMEA requirements, most of the cost will derive from the cost of checking identification and completing the logbook entries. That cost will depend on the number of sales. DEA has determined that the smallest stores sold between $20 and $40 a month in these products. This level of sales is the equivalent of five to ten sales per month of packages covered by the logbook requirement or, at the upper limit, about an additional $3.50 per month in transaction costs for the time required to check the identification. For the smallest firms, the annual cost of the rule, with the fee, is likely to be less than $100.

The smallest firms potentially covered are general merchandise stores where the average sales of the smallest firms are $60,000 a year according to the 2002 Retail Trade-Subject Series of the Economic Census. The smallest firms in the other sectors, except for discount department stores and superstores, have annual sales of between $120,000 and $150,000. There are no discount department stores or superstores with annual sales of less than $1 million and $5 million, respectively. The annual fee, therefore, would represent less than 0.03 percent of sales for the smallest store and generally about 0.01 percent of sales. The total cost of the rules for retail sales for the smallest firms is less than 0.2 percent of sales.

Executive Order 12866

The Deputy Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). It has been determined that this is a significant regulatory action. Therefore, this action has been reviewed by the Office of Management and Budget.

Regulated Sellers. As of April 10, 2007, 72,258 retailers had self-certified with DEA. Table 3 presents the number of retailers by sector and indicates whether they have indicated that they are DEA registrants.

TABLE 3.—SECTORS SELLING SCHEDULED LISTED CHEMICAL PRODUCTS

NAICS	Registrants certified	Non-registrants certified
44511 Grocery stores	5,628	913
44611 Pharmacy and drug stores	42,769	1,513

TABLE 3.—SECTORS SELLING SCHEDULED LISTED CHEMICAL PRODUCTS—Continued

NAICS	Registrants certified	Non-registrants certified
452112 Discount Department Stores	2,854	46
45291 Warehouse Clubs and Superstores	2,948	3
Subtotal	54,199	2,475
44512 Convenience stores	12	6,166
44711 Gas Stations with convenience stores	38	8,377
45299 All other general merchandise stores	19	672
Other	173	127
Total	54,441	17,817

Costs/Benefits. As discussed in the previous sections, DEA has estimated costs of $2,248,000 for Fiscal Years 2006 through 2008 for DEA to establish and support the regulated seller self-certification program, which CMEA mandates. As required by law, this cost would be recovered from regulated sellers through a self-certification fee. As noted in the previous section, the proposed fee imposes a minimal burden on regulated sellers. CMEA requires self-certification as a condition of selling these products. The fee will allow DEA to operate a program needed to permit regulated sellers to continue offering scheduled listed chemical products to their customers.

Executive Order 12988

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

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

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 $120,000,000 or more (adjusted for inflation) in any one year, and 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.

Congressional Review Act

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; 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.

List of Subjects in 21 CFR Part 1314

Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1314 is proposed to be amended as follows:

PART 1314—RETAIL SALE OF SCHEDULED LISTED CHEMICAL PRODUCTS

1. The authority citation for part 1314 is proposed to be revised to read as follows:

Authority: 21 U.S.C. 802, 830, 842, 871(b), 875, 877, 886a.

2. Section 1314.42 is proposed to be added to read as follows:

§ 1314.42 Self-certification fee; time and method of fee payment.

(a) A regulated seller shall pay a fee for each self-certification. For each initial application to self-certify, and for the renewal of each existing self-certification, a regulated seller shall pay a fee of $16.

(b) The fee for self-certification shall be waived for any person holding a current, valid DEA registration as a pharmacy to dispense controlled substances.

(c) A regulated seller shall pay the fee at the time of self-certification.

(d) Payment shall be made by credit card.

(e) The self-certification fee is not refundable.

Dated: September 19, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–19215 Filed 9–28–07; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2006–0948; FRL–8475–7]

RIN 2060–AN75

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise EPA's definition of volatile organic compounds (VOCs) for purposes of preparing State implementation plans (SIPs) to attain the national ambient air quality standard for ozone under Title I of the Clean Air Act (Act). This proposed revision would add compounds to the list of compounds excluded from the definition of VOC on the basis that these compounds make a negligible contribution to tropospheric ozone formation. The compounds under consideration are propylene carbonate and dimethyl carbonate. The EPA is inviting comment on an alternative evaluation criteria for exempting one of these compounds (propylene carbonate), methods for tracking changes in the use and emissions of both of these compounds and their potential substitutes, and the potential for health risks that may result from this action.

DATES: Comments must be received on or before October 31, 2007.

Public Hearing: If anyone contacts us requesting to speak at a public hearing on or before October 16, 2007, we will hold a public hearing. Additional

information about the hearing would be published in a subsequent **Federal Register** notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0948, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: a-and-rDocket@epa.gov*.
- *Fax:* 202–566–9744.
- *Mail:* Docket ID No. EPA–HQ–OAR–2006–0948, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, Northwest, Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, Northwest, Room: 3334, Mail Code: 2822T, Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2006–0948. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0948. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*, or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Docket ID No. EPA–HQ–OAR–2006–0948, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket ID No. EPA–HQ–OAR–2006–0948 is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: William L. Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Mail code C539–02, Research Triangle Park, NC 27711, telephone (919) 541–5245.; fax number: 919–541–0824; e-mail address: *Johnson.WilliamL@epa.gov*.

Public Hearing: To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela S. Long, Air Quality Policy Division, Mail code C504–03, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–0641, facsimile number (919) 541–5509, electronic e-mail address: *long.pam@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be an entity potentially affected by this proposed policy change if you use or emit propylene carbonate or dimethyl carbonate. States which have programs to control VOC emissions will also be affected by this proposed change.

Category	Examples of affected entities
Industry ...	Industries that make and use coatings, adhesives, inks or which perform paint stripping or pesticide application.
States	States that control VOC.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. This table lists the types of entities that EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. This proposed action has no substantial direct effects on industry because it does not impose any new mandates on these entities, but, to the contrary, removes two chemical compounds from the regulatory definition of VOC, and therefore from regulation for Federal purposes.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2006–0948.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. How Can I Find Information About a Possible Public Hearing?

Persons interested in presenting oral testimony should contact Ms. Pamela S. Long, New Source Review Group, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0641, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing should also contact Ms. Long to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed changes.

D. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

Outline

I. General Information
A. Does This Action Apply to Me?
B. What Should I Consider as I Prepare My Comments for EPA?
C. How Can I Find Information About a Possible Public Hearing?
D. How Is This Preamble Organized?
II. Background
A. Propylene Carbonate
B. Dimethyl Carbonate
III. Proposed Action
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12848: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

II. Background

Tropospheric ozone, commonly known as smog, occurs when VOCs and nitrogen oxides (NO_X) react in the atmosphere. Because of the harmful health effects of ozone, EPA and State governments limit the amount of VOCs and NO_X that can be released into the atmosphere. The VOCs are those organic compounds of carbon which form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity—that is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly, and changes in their emissions have limited effects on local or regional ozone pollution episodes. It has been EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory definition of VOC, so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists these negligibly reactive compounds in its regulations (at 40 CFR 51.100(s)) and excludes them from the definition of VOCs.

Since 1977, EPA has used the reactivity of ethane as the threshold for determining negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under the assumed conditions may be deemed negligibly reactive. Compounds that are more reactive than ethane continue to be considered reactive VOCs and therefore subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

In the past, EPA has considered three different metrics to compare the reactivity of a specific compound to that of ethane: (i) The reaction rate constant with the hydroxyl radical (known as k_{OH}), (ii) maximum incremental reactivities (MIR) expressed on a reactivity per gram basis, and (iii) MIR expressed on a reactivity per mole basis. Table 1 presents these three reactivity metrics for ethane and for the two compounds discussed in this proposed rule. Differences between these three metrics are discussed below.

TABLE 1.—REACTIVITIES OF ETHANE AND COMPOUNDS CONSIDERED FOR EXEMPTION

Compound	k_{OH} (cm^3/molecule-sec)	MIR (g O_3/mole VOC)	MIR (g O_3/gram VOC)
Ethane	2.4×10^{-13}	9.3	0.31
Propylene carbonate	6.9×10^{-13}	25.5	0.25
Dimethyl carbonate	3.49×10^{-13}	5.31	0.059

Notes: 1. k_{OH} value for ethane is from: R. Atkinson., D. L. Baulch, R. A. Cox, J. N. Crowley, R. F. Hampson, Jr., R. G. Hynes, M. E. Jenkin, J. A. Kerr, M. j. Rossi and J. Troe (2004), Summary of Evaluated Kinetic and Photochemical Data for Atmospheric Chemistry. Web version, 2005 *http://www.ibiblio.org/iupac-ki/summary/IUPACsumm_web_March2005.pdf.*

2. k_{OH} value for propylene carbonate is reported in: W.P.L. Carter, D. Luo, I.L. Malkina, E.C. Tuazon, S.M. Aschmann, and R. Atkinson (July 8, 1996), "Investigation of the Atmospheric Ozone Formation Potential of t-butyl Alcohol, N-Methyl Pyrrolidinone and Propylene Carbonate." University of California—Riverside. *ftp://ftp.cert.ucr.edu/pub/carter/pubs/arcorpt.pdf.*

3. k_{OH} value for dimethyl carbonate is reported in: Y. Katrib, G. Deiber, P. Mirabel, S. LeCalve, C. George, A. Mellouki, and G. Le Bras (2002), "Atmospheric loss processes of dimethyl and diethyl carbonate," J. Atmos. Chem., 43: 151–174.

4. All maximum incremental reactivities or MIR (g O_3/g VOC) values are from: W. P. L. Carter, "Latest VOC Reactivity tabulations for SAPRC–99 Mechanism" (updated 2/5/03) *ftp://ftp.cert.ucr edu/pub/carter/SAPRC99/r02tab.xls.*

5. MIR (g O_3/mole VOC) values were calculated from the MIR (g O_3/g VOC) values by determining the number of moles per gram of the relevant organic compound.

The k_{OH} is the reaction rate constant of the compound with the OH radical in the air. This reaction is typically the first step in a series of chemical reactions by which a compound breaks down in the air and participates in the ozone forming process. If this step is slow, the compound will likely not form ozone at a very fast rate. The k_{OH} values have long been used by EPA as a measure of photochemical reactivity and ozone forming activity, and they have been the basis for most of EPA's

previous exclusions of negligibly reactive compounds. The k_{OH} metric is inherently molar, i.e., it measures the rate at which molecules react.

The MIR values, both by mole and by mass, are more recently developed measures of photochemical reactivity derived from a computer-based photochemical model. These measures consider the complete ozone forming activity of a compound, not merely the first reaction step. Further explanation of the MIR metric can be found in: W. P. L. Carter, "Development of Ozone Reactivity Scales for Volatile Organic Compositions," Journal of the Air & Waste Management Association, Vol. 44, 881–899, July 1994.

The MIR values are usually expressed either as grams of ozone formed per mole of VOC (molar basis) or as grams of ozone formed per gram of VOC (mass basis). For comparing the reactivities of two compounds, using the molar MIR values considers an equal number of molecules of the two compounds. Alternatively, using the mass MIR values compares an equal mass of the two compounds, which will involve different numbers of molecules, depending on the relative molecular weights. The molar MIR comparison is consistent with the original smog chamber experiments, which compared equal molar concentrations of individual VOCs, that underlie the original selection of ethane as the threshold compound. It is also consistent with previous reactivity determinations based on inherently molar k_{OH} values. The mass MIR comparison is consistent with how MIR values and other reactivity metrics are applied in reactivity-based emission limits, specifically the California Air Resources Board rule for aerosol spray paints (see *http://www.arb.ca.gov/consprod/regs/apt.pdf*).

The choice of molar basis versus mass basis is significant. Given the relatively low molecular weight of ethane, use of the mass basis tends to result in more VOCs falling into the "negligibly reactive" class versus the molar basis. This means that, in some cases, a compound might be considered less reactive than ethane and eligible for VOC exemption under the mass basis but not under the molar basis. One of the compounds considered in this proposal falls into this situation, where the molar MIR value is greater than that of ethane, but the mass MIR value is less than that of ethane. This compound is propylene carbonate.

The EPA has considered the choice between a molar or mass basis for the comparison to ethane in past rulemakings and guidance. The design of the VOC exemption policy, including the choice between a mass and mole basis, has been critiqued in the published literature.[1] Most recently, in "Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans" published on September 13, 2005 (70 FR 54046), EPA stated:

> " * * * a comparison to ethane on a mass basis strikes the right balance between a threshold that is low enough to capture compounds that significantly affect ozone concentrations and a threshold that is high enough to exempt some compounds that may usefully substitute for more highly reactive compounds. * * * When reviewing compounds that have been suggested for VOC exempt status, EPA will continue to compare them to ethane using k_{OH} expressed on a molar basis and MIR values expressed on a mass basis."

Relying on a comparison of mass MIR values consistent with this guidance, EPA is proposing to revise its definition of VOC at 40 CFR 51.100(s) to add propylene carbonate and dimethyl carbonate to the list of compounds that are exempt because they are negligibly reactive because they are equal to or less reactive than ethane on a mass basis. For the first of these compounds, EPA is inviting comment on the alternative use of a molar basis for the comparison of these compounds to ethane.

EPA has become aware of revised MIR values posted by Dr. W.P.L. Carter on his Web site[2] as part of a report for the California Air Resources Board (CARB) which indicate changes in the reactivity values of the two compounds being proposed for exemption as well as for that of ethane. In particular, the new data indicate that propylene carbonate has an MIR value that is essentially equal to that of ethane on a gram basis. These new MIR values are shown in Table 2 below:

TABLE 2.—2007 REVISED MIR VALUES

Compound	MIR (g O_3/gram VOC)
Ethane	0.26
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EPA understands that these numbers were produced by Carter under a contract with the CARB and are reported in the August 31, 2007 report "Development of the SAPRC–07 Chemical Mechanism and Updated Ozone Reactivity Scales." CARB will consider this report as part of their investigation of whether MIR values in CARB regulations need to be revised. EPA is not relying on these new MIR values for this proposal, but we do not think the new MIR values would prohibit us from proceeding with the exemptions because the two compounds being proposed for exemption would still be equal to or less than ethane in reactivity. We invite comments on the whether EPA should use this new data for the VOC exemptions being considered in this notice.

The technical rationale for recommending an exemption for each of the individual compounds is given below:

A. Propylene Carbonate

Huntsman Corporation submitted a petition to EPA on July 27, 1999, requesting that propylene carbonate be exempted from VOC control based on its low reactivity relative to ethane.

Propylene carbonate (CAS registry number 108–32–7) is an odorless non-viscous clear liquid with a low vapor pressure (0.023 mmHg at 20 °C) and low evaporation rate compared to many other commonly used organic solvents. It has been used in cosmetics, as an adhesive component in food packaging, as a solvent for plasticizers and synthetic fibers and polymers, and as a solvent for aerial pesticide application.

Huntsman submitted several pieces of information to support its petition, all of which have been added to the docket for this action. One of these pieces of information was "Investigation of the Atmospheric Ozone Formation Potential of t-butyl Alcohol, N-Methyl Pyrrolidinone and Propylene Carbonate" by William P.L. Carter, Dongmin Luo, Irina L. Malkina, Ernesto C. Tuazon, Sara M. Aschmann, and Roger Atkinson, University of California at Riverside, July 8, 1996. Table 8 of that reference lists the MIR for propylene carbonate (on a gram basis) as 1.43 times higher than that of ethane. However, in Table 1 above, EPA has shown a 2003 MIR value that was taken from more recent 2003 data from Dr. Carter's Web site. This 2003 MIR value is lower than that of ethane on a mass basis.

From the data in Table 1, it can be seen that propylene carbonate has a higher k_{OH} value than ethane, meaning that it initially reacts more quickly in the atmosphere than ethane. A molecule of propylene carbonate is also more reactive than a molecule of ethane, as shown by the molar MIR (g O_3/mole VOC) values, since equal numbers of

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moles have equal numbers of molecules. However, a gram of propylene carbonate is less reactive, or creates less ozone on the day of its emission to the atmosphere, than a gram of ethane. This is because propylene carbonate has a molecular weight (102), which is over three times that of ethane (30), thus requiring less than a third the number of molecules of propylene carbonate to weigh a gram than the number of molecules of ethane needed to weigh a gram.

Based on the mass MIR (g O_3/g VOC) value for propylene carbonate being equal to or less than that of ethane, EPA is proposing to find that propylene carbonate is "negligibly reactive" and therefore exempt for the regulatory definition of VOC at 40 CFR 51.100(s). EPA is inviting comment on whether the comparison of propylene carbonate to ethane should instead be made on the basis of the molar MIR (g O_3/mole VOC) value. In that case, the petition to grant propylene carbonate a status of "negligibly reactive" would be denied.

B. Dimethyl Carbonate

The EPA received a petition from Kowa America Corporation on July 29, 2004 seeking an exemption from the regulatory definition of VOC for dimethyl carbonate. This petition asserted that dimethyl carbonate (DMC) is less photochemically reactive than ethane and asked for the exemption on that basis.

Dimethyl carbonate (CAS registry number 616–38–6) may be used as a solvent in paints and coatings. The petitioner anticipated that it might be used in waterborne paints and adhesives because it is partially water soluble. It is also used as a methylation and carbonylation agent in organic synthesis. It can be used as a fuel additive.

In support of its petition, the petitioner presented articles which give the k_{OH} and MIR values for the compound shown in Table 1. These articles have been placed in the docket.

As shown in Table 1, DMC has a greater k_{OH} value than ethane, which indicates that DMC will likely initially react more quickly in the atmosphere. However, the MIR values for DMC calculated on either a mass or mole basis are less than that of ethane, which indicates lower reactivity overall. Based on these data, EPA proposes to find that DMC is "negligible reactivity" and therefore exempt from the regulatory definition of VOC at 40 CFR 51.100(s). Because both the mass and molar MIR values of DMC are less than those of ethane, this chemical would meet EPA's exemption criteria under either MIR metric.

III. Proposed Action

This proposed action is based on EPA's review of the material in Docket ID No. EPA–HQ–OAR–2006–0948. The EPA hereby proposes to amend its definition of VOC at 40 CFR 51.100(s) to exclude propylene carbonate and dimethyl carbonate from the regulatory definition of VOC for use in ozone SIPs and ozone controls for purposes of attaining the ozone national ambient air quality standard.

The revised definition will also apply for purposes of any Federal implementation plan for ozone nonattainment areas (*see e.g.*, 40 CFR 52.741(a)(3)). States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, if this action is made final, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy.

Excluding a compound from the regulatory definition of VOC may lead to changes in the amount of the exempt compound used and the types of applications in which the exempt compound is used. Although this proposal has no mandatory reporting requirements, EPA urges States to continue to inventory the emissions of these compounds for use in photochemical modeling. Further, EPA invites comment on methods for tracking the uses and emissions of these two compounds, as well as any more reactive compounds for which these two compounds may substitute.

The EPA believes that the proposed exemptions will help to decrease exposures to ground-level ozone by encouraging the use of exempted negligibly reactive compounds in lieu of VOCs and thereby focusing air quality management programs on VOC emissions that contribute most to ozone formation. Although compounds are defined as negligibly reactive solely on the basis of their contribution to ground-level ozone formation, EPA is interested in evaluating whether the proposed exemptions could increase public health risks if these negligibly reactive compounds were toxic themselves. While EPA does not have information to suggest that the proposed exemptions could increase health risks due to possible toxicity of the exempted compounds, we invite the public to submit comments and additional information relevant to this issue.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It does not impose any recordkeeping or reporting requirement burden.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply, with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency does not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

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The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a RFA analysis in those instances where the regulation would impose a substantial impact on a significant number of small entities. Because this

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The revised definition will also apply for purposes of any Federal implementation plan for ozone nonattainment areas (*see e.g.*, 40 CFR 52.741(a)(3)). States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, if this action is made final, States should not include these compounds in their VOC emissions inventories for determining reasonable further progress under the Act (e.g., section 182(b)(1)) and may not take credit for controlling these compounds in their ozone control strategy.

Excluding a compound from the regulatory definition of VOC may lead to changes in the amount of the exempt compound used and the types of applications in which the exempt compound is used. Although this proposal has no mandatory reporting requirements, EPA urges States to continue to inventory the emissions of these compounds for use in photochemical modeling. Further, EPA invites comment on methods for tracking the uses and emissions of these two compounds, as well as any more reactive compounds for which these two compounds may substitute.

The EPA believes that the proposed exemptions will help to decrease exposures to ground-level ozone by encouraging the use of exempted negligibly reactive compounds in lieu of VOCs and thereby focusing air quality management programs on VOC emissions that contribute most to ozone formation. Although compounds are defined as negligibly reactive solely on the basis of their contribution to ground-level ozone formation, EPA is interested in evaluating whether the proposed exemptions could increase public health risks if these negligibly reactive compounds were toxic themselves. While EPA does not have information to suggest that the proposed exemptions could increase health risks due to possible toxicity of the exempted compounds, we invite the public to submit comments and additional information relevant to this issue.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It does not impose any recordkeeping or reporting requirement burden.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply, with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a RFA analysis in those instances where the regulation would impose a substantial impact on a significant number of small entities. Because this

rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

After considering the economic impacts of this proposed rule on small entities, I have determined that this action will not have a significant economic impact on a substantial number of small entities. This rule will not impose any requirements on small entities. This rule concerns only the definition of VOC and does not directly regulate any entities. The RFA analysis does not consider impacts on entities which the action in question does not regulate. See *Motor & Equipment Manufacturers Ass'n* v. *Nichols,* 142 F. 3d 449, 467 (D.C. Cir. 1998); *United Distribution Cos.* v. *FERC,* 88 F. 3d 1105, 1170 (D.C. Cir. 1996), cert. denied, 520 U.S. 1224 (1997). Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the rule will not have an impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly. most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Since this rule is deregulatory in nature and does not impose a mandate upon any source, this rule is not estimated to result in the expenditure by State, local and Tribal governments or the private sector of $100 million in any 1 year. Therefore, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This action addressing the exemption of two chemical compounds from the VOC definition does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action does not impose any new mandates on State or local governments. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA is specifically soliciting comments on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. Today's action does not have any direct effects on Indian Tribes. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal governments, EPA invites comments on the proposed rule from Tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in

Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d), (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed rule amendment is deregulatory and does allow relaxation of the control measures on sources. However, this is not expected to lead to increased ozone formation since the compounds being exempted have been determined to have negligible photochemical reactivity.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 2007.

Stephen L. Johnson,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51, subpart F, continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

§ 51.100 [Amended]

2. Section 51.100 is amended at the end of paragraph (s)(1) introductory text by removing the words "and perfluorocarbon compounds which fall into these classes:" and adding in their place a semi-colon and the words "; propylene carbonate; dimethyl carbonate; and perfluorocarbon compounds which fall into these classes:".

[FR Doc. E7–19324 Filed 9–28–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2007–0913; FRL–8474–9]

Approval and Promulgation of Implementation Plans; New York: Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the New York State Implementation Plan (SIP) that addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005 and subsequently revised on April 28, 2006, and December 13, 2006. EPA is proposing to determine that the SIP revision fully implements the CAIR requirements for New York. EPA will also withdraw the CAIR Federal Implementation Plans (CAIR FIPs) concerning sulfur dioxide (SO_2), nitrogen oxides (NO_X) annual, and NO_X ozone season emissions for New York pending final approval of New York's SIP revision. The CAIR FIPs for all states in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006.

The SIP revision that EPA is proposing to approve will also satisfy New York's 110(a)(2)(D)(i) obligations to submit a SIP revision that contains adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport.

CAIR requires states to reduce emissions of SO_2 and NO_X that significantly contribute to and interfere with the maintenance of the national ambient air quality standards for fine particulates and/or ozone in any downwind state. CAIR establishes state budgets for SO_2 and NO_X and requires states, which EPA has concluded contribute to nonattainment in downwind states, to submit SIP revisions that implement these budgets. States have the flexibility to choose the control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is proposing to approve, New York would meet CAIR requirements by participating in the EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions.

DATES: Comments must be received on or before October 31, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2007–0913, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: Werner.Raymond@epa.gov.*
3. *Fax:* (212) 637–3901.
4. *Mail:* EPA–R02–OAR–2007–0913, Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

5. *Hand Delivery or Courier:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2007–0913. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's proposal, please contact Kenneth Fradkin, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. The telephone number is (212) 637–3702. Mr. Fradkin can also be reached via electronic mail at *Fradkin.kenneth@epa.gov.*

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I. What Action Is EPA Proposing To Take?

EPA is proposing to approve a revision to New York's SIP that was adopted on August 28, 2007 and submitted on September 17, 2007. New York's revision addresses the Clean Air Interstate Rule (CAIR) and obligations under 110(a)(2)(D)(i) for the 8-hour ozone and fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). New York had submitted an earlier version of the revision on March 30, 2007. EPA is proposing to approve the September revision only since it contains the version of New York's CAIR rulemaking that was adopted by New York's Environmental Control Board (ECB) on August 28, 2007.

In its SIP revision, New York would meet CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. EPA is proposing to determine that the SIP, as revised, will meet the applicable requirements of CAIR. Any final action on the SIP will be taken by the Regional Administrator for Region 2. In the event the proposed approval is finalized, the Administrator of EPA will also issue a final rule to withdraw the FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for New York. This action will delete and reserve 40 CFR 52.1684 and 40 CFR 52.1685, relating to the CAIR FIP obligations for New York. The withdrawal of the CAIR FIPs for New York is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIPs was premised on a deficiency in the SIP for New York. Once the SIP is fully approved, EPA no longer has authority for the FIPs. Thus, EPA will not have the option of maintaining the FIPs following the full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIPs.

In addition, EPA is also proposing approval of a revision to New York's SIP to address the requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA). This section of the Act requires each state to submit a SIP that prohibits emissions that could adversely affect another state. The SIP must prevent sources in the state from emitting pollutants in amounts that will: (1) Contribute significantly to downwind nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

II. What Is the Regulatory History of the CAIR and the CAIR FIPs?

The Clean Air Interstate Rule (CAIR) was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 states and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the national ambient air quality standards (NAAQS) for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind states in the eastern part of the country. As a result, EPA required those upwind states to revise their SIPs to include control measures that reduce emissions

of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual state-wide emission reduction requirements (i.e., budgets) for SO_2 and annual state-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets state-wide emission reduction requirements for NO_X for the ozone season (May 1st to September 30th). Under CAIR, states may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR provides an explanation of what states must include in SIPs to address the requirements of section 110(a)(2)(D) of the CAA with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the states had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These findings started a 2-year clock for EPA to promulgate a Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated FIPs for all states covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. Each CAIR state is subject to the FIPs until the state fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone season trading programs, as appropriate. The CAIR FIP SO_2, NO_X annual, and NO_X ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all states covered by the CAIR FIP or SIP trading program for that pollutant. The CAIR FIPs also allow states to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (e.g., the methodology for allocating NO_X allowances to sources in the state), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of states subject to CAIR for $PM_{2.5}$, and without making any substantive changes to the CAIR requirements, announced EPA's final decisions on reconsideration of five issues, including certain technical, allocation, compliance, cost-effectiveness, and timing issues, as well as a decision specific to Florida.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR established state-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires states to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the state's choosing and demonstrating that such control measures will result in compliance with the applicable state SO_2 and NO_X budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that states must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only states that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for states that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for states that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA anticipates that most states will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such states, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, states may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding provisions of the CAIR FIPs (e.g., the NO_X allowance allocation methodology).

A state submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that states may only make limited changes to the model rules if the states want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

1. Include NO_X SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_X ozone season trading program;
2. Provide for state allocation of NO_X annual or ozone season allowances using a methodology chosen by the State;
3. Provide for state allocation of NO_X annual allowances from the compliance supplement pool (CSP) using the state's choice of allowed, alternative methodologies; or
4. Allow units that are not otherwise CAIR units to opt individually into the CAIR SO_2, NO_X annual, or NO_X ozone season trading programs under the opt-in provisions in the model rules.

An approved CAIR full SIP revision addressing EGUs' SO_2, NO_X annual, or NO_X ozone season emissions will replace the CAIR FIP for that state for the respective EGU emissions.

V. Analysis of New York's CAIR SIP Submittal

New York has submitted regulations in its SIP revision, Title 6 of the New York Code of Rules and Regulations (NYCRR), Parts 243, 244, and 245, to implement the CAIR Cap-and-Trade Programs in New York. The SIP revision also addresses outstanding obligations under 110(a)(2)(D)(i). The acceptability

of New York's submittal is discussed below.

A. State Budgets for Allowance Allocations

The CAIR NO_X annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/mmBtu, for phase 1, and 0.125 lb/mmBtu, for phase 2, to obtain regional NO_X budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_X annual and ozone season budgets from the regional budgets using state heat input data adjusted by fuel factors.

The CAIR State SO_2 budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.5 ton of SO_2 emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO_2 emissions in the CAIR trading program.

In today's action, EPA is proposing approval of New York's SIP revision that adopts the budgets established for the State in CAIR. The Statewide CAIR NO_X ozone season budget is 20,632 tons of NO_X ozone season emissions for phase 1 (2009–2014) and 17,193 tons for phase 2 (2015 and thereafter), plus an additional 10,459 tons of NO_X ozone season emissions for both phases 1 and 2 to account for NO_X ozone season emissions from "non-EGU" units from the New York NO_X SIP Call trading program (see V.B. below). The total NO_X ozone season budget is therefore 31,091 tons of NO_X ozone season emissions for CAIR phase 1 and 27,652 tons for CAIR phase 2. The Statewide CAIR NO_X annual budget is 45,617 for CAIR phase 1 and 38,014 for CAIR phase 2 for NO_X annual emissions. The Statewide CAIR SO_2 trading program budget is 135,139 for phase 1 (2010–2014) and 94,597 for phase 2 (2015 and thereafter) tons for SO_2 emissions. New York's SIP revision sets these budgets as the total amount of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone-season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a Compliance Supplement Pool (CSP), which is discussed below and under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program. In addition, states have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. As discussed in Section V.A. above, the SO_2 model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

In the SIP revision, New York chooses to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. New York has adopted a full SIP revision that adopts, with certain allowed changes discussed below, the CAIR model cap-and-trade rules for SO2, NO_X annual, and NO_X ozone season emissions.

C. Applicability Provisions for Non-EGU NO_X SIP Call Sources

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR. EPA advises states exercising this option to add the applicability provisions in the State's NO_X SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 of EPA's model trading rule. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e. units serving a generator with a nameplate capacity of 25 MWe or less) that the state currently requires to be in the NO_X SIP Call trading program.

New York has chosen to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all non-EGUs currently in the State's NO_X SIP Call trading program.

D. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIPs also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology to allocate allowances to sources in the states if certain requirements are met. Primarily, the timing of the submission of NO_X annual and NO_X ozone season CAIR units' allocations to the Administrator for recordation and the total amount of NO_X annual and NO_X ozone season allowances allocated for each control period must be consistent with the applicable requirements in 40 CFR 51.123(o) and (aa). In adopting alternative NO_X allowance allocation methodologies, states have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;

2. The frequency of allocations;

3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and

4. The use of allowance set-asides and, if used, their size.

New York has chosen to replace the provisions of the CAIR NO_X annual and ozone-season model trading rules concerning the allocation of NO_X annual and ozone-season allowances with its own methodology.

New York's allocation methodology is based on the highest heat input (EGUs and non-EGUs) experienced by a CAIR unit for any single control period among the three most recent control periods, for which data is available. The number of allocations to be allocated to each unit will not exceed the unit's control period potential to emit (CPPTE), which is defined as the maximum capacity of a CAIR NO_X unit to emit NO_X under its physical and operational design during a control period. All fuel types are weighed evenly without adjustment of heat input data for fuel type.

New York is establishing new CAIR NO_X Ozone Season and CAIR NO_X annual set-aside accounts for units commencing operation on/or after May 1, 2003 for CAIR NO_X Ozone Season units, and on/or after January 1, 2003 for CAIR NO_X annual units. The new unit set-aside accounts will consist of five percent of the statewide CAIR NO_X ozone season and NO_X annual budgets for both phases of the CAIR program. Therefore, the new unit set-aside includes 1,554 CAIR NO_X ozone-season allowances during phase 1, and 1,382 CAIR NO_X ozone-season allowances during phase 2; and 2,280 CAIR NO_X annual allowances during phase 1 and 1,900 CAIR NO_X annual allowances during phase 2 .

If the number of requests for allowances exceeds the number of allowances in the new set-aside account, New York will reserve allowances in the order in which approvable requests were submitted. Requests will be considered simultaneous if received in the same calendar quarter. Should approvable requests in excess of the set-aside be submitted in the same quarter, New York will reserve allowances for those units in an amount proportional to the allowances requested. Any unused allowances from the set-aside will flow back to existing sources as additional allocations in proportion to their original allocation.

New York will distribute all allowances at no cost with the exception of allowances held in the Energy Efficiency and Renewable Energy Technology (EERET) Account. New York is allocating ten percent of emission allowances to the Energy Efficiency and Renewable Energy Technology (EERET) Account, which will be administered by the New York State Energy Research and Development Authority (NYSERDA). Allowances will be sold or distributed in order to provide funds to be used to support programs that encourage and foster energy efficiency measures and renewable energy technologies and cover reasonable costs associated with the administration and evaluation of these programs by NYSERDA. Any EERET allowances that are not sold or distributed by NYSERDA within 12 months of the initial allocation to the EERET account, will flow back to the New York Department of Environmental Conservation and be redistributed to existing CAIR units.

E. Allocation of NO_X Allowances From Compliance Supplement Pool

The CAIR establishes a compliance supplement pool (CSP) to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a state's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that state. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable state or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_X model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the states.

As a result of emission reductions already achieved in New York, the state will not receive any CSP allowances. Therefore, New York will not modify the provisions of the CAIR NO_X annual model trading rule concerning the allocation of allowances from the CSP.

F. Individual Opt-In Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. Owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decide to adopt none of the opt-in provisions.

New York has chosen to allow non-EGUs to opt into the CAIR NO_X annual, CAIR NO_X ozone season, and CAIR SO_2 trading programs. New York's program allows for both opt-in allocation methods as indicated in the model rule for opt-in units in general and for opt-in units that the owners and operators intend to repower before January 1, 2015.

G. Satisfying Section 110(a)(2)(D)(i) of the Clean Air Act

Section 110(a)(2)(D)(i) of the CAA requires each state to submit a SIP that prohibits emissions that could adversely affect another state. The SIP must prevent sources in the state from emitting pollutants in amounts that will: (1) Contribute significantly to downwind nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

EPA issued guidance on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i). As discussed below, New York's SIP revision is consistent with the guidance and the statute.

New York addresses the first two of these four elements by complying with the requirements of CAIR. New York satisfies these requirements either by

relying on the existing CAIR FIPs, or through approval of this SIP revision.

The third element New York addresses is prevention of significant deterioration (PSD). In accordance with the guidance issued on August 15, 2006, states may continue to rely on their existing Nonattainment New Source Review (NNSR) and PSD permitting programs to prevent significant deterioration of air quality within their own boundaries and in adjacent states. New York has met the obligation by confirming that the federal PSD and state NNSR permitting programs remain in effect and continue to apply for the State's major stationary sources. In addition, New York is currently in the rulemaking process for part 231, New Source Review for New and Modified Facilities, which will be submitted to EPA as expeditiously as possible for approval and inclusion in the SIP. Part 231 will include 8-hour ozone and $PM_{2.5}$ PSD and NNSR permitting requirements for major sources in the state. Part 231 will also use PM_{10} as a surrogate for $PM_{2.5}$ in the PSD and NNSR programs.

With respect to the fourth element, visibility protection, and consistent with EPA's August 15, 2006 guidance, it is not possible at this time for New York to accurately determine whether there is interference with measures in another state's SIP designed to protect visibility. New York will need to address the visibility protection requirements once the regional haze SIP is completed and submitted to EPA in December of 2007.

H. What Other Clarifications Should New York Make in Its Program?

New York should incorporate the definition of "fossil-fuel fired" under the NO_X SIP Call into its CAIR NO_X ozone season regulation. This revision should specify that the definition applies only for purposes of determining applicability for units that are not CAIR NO_X Ozone Season units under the applicability criteria in 40 CFR 96.304. In the final New York CAIR ozone season regulation, the definition for "Fossil fuel fired" contained in 243–1.2(43)(ii), does not include this cross-reference to the applicability in 243–1.4(a)(3).

New York agrees with EPA's interpretation of the definition of "fossil fuel fired." As indicated in the September 17, 2007 SIP revision, New York has committed to revise the definition of "Fossil fuel fired" in its NO_X CAIR ozone season regulation as discussed above. New York has committed to modify the definition simultaneous with revision of its CAIR regulations to address EPA's proposed rulemaking revising the cogeneration unit definitions. New York will revise the definition of "fossil fuel fired" no later than the effective date of the NO_X CAIR program.

VI. Proposed Actions

EPA is proposing to approve New York's full CAIR SIP revision submitted on September 17, 2007. Under this SIP revision, New York is choosing to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA is proposing to determine that the SIP as revised will meet the requirements of CAIR. If EPA approves New York's SIP revision, the Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for New York. This action will delete and reserve 40 CFR 52.1684 and 40 CFR 52.1685.

EPA is also proposing that this revision adequately addresses the required elements of 110(a)(2)(D)(i) with the exception of the visibility protection requirement. This requirement will be re-evaluated after the regional haze SIP is completed and submitted to EPA in December 2007.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and would impose no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action proposes to approve pre-existing requirements under state law and would not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposal also does not have tribal implications because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action also does not have Federalism implications because it would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard and will result, as a consequence of that approval, in the Administrator's withdrawal of the CAIR FIP. It does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it would approve a state rule implementing a Federal Standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: September 21, 2007.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E7–19346 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

42 CFR Part 71

RIN 0920–AA03

Foreign Quarantine Regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Advance notice of proposed rulemaking; extension of public comment period.

SUMMARY: On July 31, 2007, CDC published an advanced notice of proposed rulemaking (ANPRM), "Foreign Quarantine regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations," (72 FR 41676) to begin the process of revising HHS/CDC Animal Importation Regulations that cover dogs and cats (42 CFR 71.51), and to consider extending these regulations to cover domesticated ferrets. The ANPRM will also address the importation of African rodents (42 CFR 71.56) into the United States. HHS/CDC is also considering the need for additional regulations to prevent the introduction of zoonotic diseases into the United States. CDC provided a 60-day pubic comment period, with written comments to be received on or before October 1, 2007. CC has received requests asking for an extension of the comment period. In consideration of these requests, CDC is extending the comment period an additional 60 days, with a new closing date of December 1, 2007.

DATES: Written comments on the advance notice of proposed revision of HHS/CDC Animal Importation Regulations must be submitted on or before December 1, 2007. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

ADDRESSES: Written comments may submitted to the following address: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, ATTN: Animal Importation Regulations, 1600 Clifton Road, NE., (E03), Atlanta, GA 30333. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m. at 1600 Clifton Road, NE., Atlanta, GA 30333. Please call ahead to 1–866–694–4867 and ask for a representative in the Division of Global Migration and Quarantine to schedule your visit.

Written comments may also be submitted electronically via the Internet at *http://www.regulations.gov* or via e-mail to *animalimportcomments@cdc.gov*. Electronic comments may be viewed at *http://www.cdc.gov/publiccomments/*.

An electronic copy of the rule can be found at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Robert Mullan, M.D., Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, (404) 639–4537.

SUPPLEMENTARY INFORMATION: On July 31, 2007, CDC published an advanced notice of proposed rulemaking (ANPRM), "Foreign Quarantine Regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations" (72 FR 41676). In that **Federal Register** Notice, CDC provided a 60-day public comment period. Written comments were to be received on or before October 1, 2007. Since the Notice was published, CDC has received requests asking for an extension of the public comment period beyond the 60 days originally provided. These requests have been made by national groups that represent organizations that will be affected by the proposed rule. In consideration of these concerns, CDC is extending the comment period by 60 days (until December 1, 2007) to give all interested organizations and persons the opportunity to comment fully.

Commenters should be aware that CDC's general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet as they are received and without change, including any personal identifiers or contact information.

CDC has posted the ANPRM and related materials on its Web site at *http://www.cdc.gov/ncidod.dq*.

Dated: September 20, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–4852 Filed 9–27–07; 12:07 pm]

BILLING CODE 4163–18–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 070803437–7439–01]

RIN 0648–AV93

Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish the 2008 first trimester season quotas for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks based on over- or underharvests from the 2007 first trimester season. This proposed action would provide advance notice of quotas and season dates for the Atlantic commercial shark fishery. It would also ensure the measures in this action are in place until they are replaced by those implemented under Amendment 2 to the Highly Migratory Species (HMS) Fisheries Management Plan (FMP) even if Amendment 2 is finalized after the start of the second trimester season (May 1, 2008). As such, this action constitutes the regulatory action to determine quotas and season lengths for LCS, SCS and pelagic sharks for the 2008 second trimester season.

DATES: Comments on this proposed rule may be submitted at the public hearing (oral or written), via email, mail, or fax by October 31, 2007.

A public hearing will be held from 7–9 p.m. on October 3, 2007.

ADDRESSES: You may submit comments, identified by [0648–AV93], by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*
- Fax: 301–713–1917, Attn:[LeAnn Southward Hogan]
- Mail: 1315 East West Highway, Silver Spring, MD 20910

Please mark on the outside of the envelope "Comments on Proposed Rule for 2008 First Trimester Season Lengths and Quotas".

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The hearing location will be held at the NOAA Science Center, 1305 East West Highway, Silver Spring, MD 20910.

Copies of the draft Environmental Assessment (EA) and other relevant documents are available from the HMS website *http://www.nmfs.noaa.gov/sfa/hms/* or by contacting LeAnn Southward Hogan (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: LeAnn Southward Hogan or Karyl Brewster-Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS recently finalized a Consolidated Atlantic HMS FMP that consolidated and replaced previous FMPs for Atlantic Billfish, and Atlantic Tunas, Swordfish, and Sharks. The HMS FMP is implemented by regulations at 50 CFR part 635.

Currently, the Atlantic shark annual quotas, with the exception of pelagic sharks, are split among three regions based on historic landings (1999 -2003). Consistent with 50 CFR 635.27(b)(1)(iii) and (iv), the annual LCS quota (1,017 mt dw) is split among the three regions as follows: 52 percent to the Gulf of Mexico, 41 percent to the South Atlantic, and 7 percent to the North Atlantic. The annual SCS quota (454 mt dw) is split among the three regions as follows: 48 percent to the Gulf of Mexico, 49 percent to the South Atlantic, and 3 percent to the North Atlantic. The regional quotas for LCS and SCS are divided equally between the trimester seasons in the South Atlantic and the Gulf of Mexico, and according to historical landings in the North Atlantic.

Consistent with 50 CFR 635.27(b)(1)(vi), any over- or underharvest in a given region from the 2007 first trimester season will be carried over to the 2008 first trimester season in that region.

2007 First Trimester Landings

Shark landings data for the 2007 first trimester season are provided in Table 1. As a result of the over- and underharvests that occurred in the first trimester season of 2007, NMFS analyzed alternatives to adjust the 2008 first trimester season and quotas for the LCS and SCS fishery.

TABLE 1—LANDINGS IN METRIC TONS DRESSED WEIGHT (MT DW) FOR THE 1ST TRIMESTER SEASON OF 2007. LANDINGS ESTIMATES ARE BASED ON DEALER REPORTS RECEIVED AS OF JULY 31, 2007.

First Trimester Season 2007				
Species Group (Annual Quota, mt dw)	Region (Allocation)	Quota (mt dw)	Estimated Landings (mt dw)	Percent Quota Taken
Large Coastal Sharks (1,017)	Gulf of Mexico (52 %)	62.3	187.4	300
	South Atlantic (41 %)	-112.9	9.7	–
	North Atlantic (7 %)	7.9	0	0
Small Coastal Sharks (454)	Gulf of Mexico (10 %)	15.1	14.5	96
	South Atlantic (87 %)	308.4	27.6	9
	North Atlantic (3 %)	18.8	0	0
Blue Sharks (273)	No regional quotas	91	0	0
Porbeagle sharks (92)		30.7	0.1	0.3
Pelagic Sharks other than those above (488)		162.7	30.6	18.8

Quota Adjustments in the LCS and SCS Fishery

NMFS conducted an Environmental Assessment (EA) to analyze three LCS and SCS alternatives for adjusting regional trimester quotas and other management measures based on the over- and underharvests that occurred in the LCS and SCS fisheries in the North Atlantic, South Atlantic and Gulf of Mexico regions during the 2007 first trimester season.

These measures are necessary to ensure that over- and underharvests from 2007 are accounted for and any impacts are analyzed. The base quotas established in Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks and maintained in the Consolidated HMS FMP would not be affected by this rulemaking. Rather, the LCS base quotas would be changed via the final Amendment 2 to the Consolidated HMS FMP and its final rule. Based on the 2005 Canadian porbeagle stock assessment, the 2006 dusky shark stock assessment and the 2005/2006 LCS stock assessment, NMFS has determined that a number of shark species are overfished and overfishing is occurring and an amendment to the HMS FMP is needed to implement management measures to rebuild overfished stocks and prevent overfishing. The management measures proposed in the draft Amendment 2 to the HMS FMP would reduce fishing effort and mortality to rebuild overfished Atlantic shark species while ensuring that a limited shark fishery can be maintained. The final Amendment 2 to the HMS FMP is expected to be published in late winter or early spring 2008.

LCS Quota Adjustments and Fishing Season Notification

Consistent with 50 CFR 635.27(b)(1)(vi)(A)(*3*), the LCS quota for the Gulf of Mexico and South Atlantic regions is split equally (33.3 percent/season) between the three trimester fishing seasons, and the quota for the North Atlantic is split according to historical landings of 4, 88, and 8 percent for the first, second, and third trimester seasons, respectively. Due to LCS overharvests that occurred in both the Gulf of Mexico and South Atlantic regions during the first trimesters of 2006 and 2007, the LCS quotas for these regions and season have been significantly reduced from the baseline quotas. Table 2 describes the adjusted LCS quotas based on the 2007 first trimester overharvests.

Under alternative 1 (no action) the Gulf of Mexico region would have a quota of 51 mt dw (112,435 lb dw) and would have a five day season, and the North Atlantic region would have a quota of 10.7 mt dw (23,589 lb dw) and would be open for the entire first season of 2008. The South Atlantic region would have a quota of 16.3 mt dw (35,935 lb dw). However, based upon historical (2004–2007) average catch rates and landings that occurred during federal closures during the first trimester, 96.9 percent of the quota would be harvested if the season was open for one day. Therefore, due to safety at sea concerns and possible derby fishing conditions, the LCS fishery in the South Atlantic region would be closed for the 2008 first trimester season under the no action alternative.

Under alternative 3 (the preferred alternative), NMFS would close the LCS fishery in the Gulf of Mexico, South Atlantic, and North Atlantic regions during the 2008 first trimester season until Amendment 2 to the HMS FMP is effective. Closing the LCS fishery during the 2008 first trimester season would be the second consecutive year that NMFS closed the LCS fishery in the South Atlantic region during the first trimester. As a result, the South Atlantic region commercial LCS fishermen would continue to experience negative social and economic impacts associated with these management measures.

A closure in the Gulf of Mexico region could avoid safety at sea concerns and possible derby fishing condition that may occur as a result of the five day season (no action alterative).

In the North Atlantic region from 2004–2007 an average of 0.4 mt dw was landed during the entire first trimester season. Thus, due to the historically small landings in this region during the first trimester, NMFS does not expect that the North Atlantic region would be negatively impacted from a LCS closure in this region during the 2008 first trimester.

The preferred LCS management measures that are finalized in this action would be in place from January 1, 2008, until Amendment 2 to the Consolidated HMS FMP is finalized and effective even if that date is after the end of the 2008 first trimester season on April 30th. The preferred alternative would provide positive ecological benefits by eliminating directed fishing effort and possession of LCS in any region. Eliminating this directed fishery from all regions would provide the most ecological benefits to overfished sandbar and dusky shark populations and reduce fishing pressure on other LCS species, relative to Alternative 1 (no action). Positive ecological impacts would result from these closures for incidental and protected species, particularly for sea turtles as 64 percent of annual sea turtles interactions occur in the BLL fishery between January and April. Therefore, the ecological benefits of keeping the LCS fishery closed in all regions until Amendment 2 to the HMS FMP is effective may outweigh the potential economic impacts associated with the closure.

Furthermore, the LCS quotas for the 2007 merged second and third seasons in the Gulf of Mexico and South Atlantic regions are 83.1 mt dw and 163.70 mt dw, respectively. The LCS quota for the second season in the North Atlantic region is 69 mt dw. As of July 31, 2007, preliminary landings data from federal dealers indicate that there were 144.6 mt dw landed in the Gulf of Mexico despite a season that begins on September 1 and closes on September 22, 2007. These landings have exceeded the federal quota of 83.1 mt dw and can be primarily attributed to landings of sharks caught in state waters and sold to federal dealers. In the South Atlantic region, the LCS season was open from July 15 through August 15, 2007. As of July 31, 2007, there were 35.8 mt dw of LCS landed and reported by federal dealers. In the North Atlantic region, there were 74.8 mt dw landed which exceeds the federal quota of 69 mt dw. As federal dealer reports continue to be submitted in each region and the LCS season in the Gulf of Mexico is open from September 1–22, 2007, it is likely there will be extensive overharvests of LCS in the 2007 second and third seasons. Under current regulations, any over– or underharvest that occurs in the 2007 second and third trimester season would need to be taken into account during the 2008 second trimester season. However, as mentioned above, the LCS closure in each region resulting from this proposed rule would remain effective until Amendment 2 to the HMS FMP is finalized and effective. There would be no additional regulatory action to determine LCS quotas and season lengths for the 2008 second trimester season.

Besides the no action alternative (alternative 1) and the preferred alternative (alternative 3), NMFS also considered alternative 2, which would combine the regions into one region. Under this alternative, the quota would be 78 mt dw for this one region and the season would be open for six days. NMFS did not prefer this alternative because negative consequences of establishing a single region combined with a substantially shortened season might include derby–style fishing and safety at sea concerns, as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. Additionally, negative ecological impacts to overfished shark species could occur if all regions were combined and opened for a short time period as proposed under this alternative.

SCS Quota Adjustments and Season Notification

Consistent with 50 CFR 635.27(b)(1)(iv), the annual SCS quota (454 mt dw) is split among the regions as follows: 48 percent to the Gulf of Mexico region, 49 percent to the South Atlantic region and 3 percent to the North Atlantic region. Also consistent with 50 CFR 635.27 (b)(1)(vi)(A)(*3*), the SCS quota for the Gulf of Mexico and South Atlantic regions is further split equally (33.3 percent/season) between the three trimester fishing seasons in each of the regions, and the quota for the North Atlantic is further split of 4, 88 and 8 percent for the first, second, and third trimester seasons, respectively.

There were no overharvests of SCS in any region during the 2007 first trimester season. Under the current regulations, the SCS 2008 first trimester season quotas would be 354.9 mt dw (782,413 lb dw) in the South Atlantic region, 73.2 mt dw (161,377 lb dw) in the Gulf of Mexico region, and 19.3 mt dw (42,549 lb dw) in the North Atlantic region. The SCS season would open on January 1, 2008 and would close when quotas are projected to be reached with a notification filed at the Office of the Federal Register by the Assistant Administrator (AA), consistent with 50 CFR 635.28(b)(2). Table 2 describes the proposed adjusted quotas and seasons

for SCS for the various regions for the 2008 first trimester season adjusted for underharvests that occurred during the 2007 first trimester season (Table 1).

If Amendment 2 to the HMS FMP is not final and effective by the start of the 2008 second trimester season, the SCS fishery would open on May 1, 2008, with the baseline quotas of 12 mt dw in the North Atlantic region, 74.1 mt dw in the South Atlantic region, and 72.6 mt dw in the Gulf of Mexico region.

Pelagic Shark Quota Adjustments and Season Notification

Existing regulations do not allow underharvests of pelagic sharks to be carried forward to the next fishing management period. As of July 31, 2007, approximately 30.7 mt dw were reported landed in the 2007 first trimester fishing season in total for pelagic, blue, and porbeagle sharks combined. Thus, the pelagic shark quota does not need to be reduced consistent with the current regulations 50 CFR 635.27(b)(1)(vi)(B). The 2008 first trimester season quotas for pelagic, blue, and porbeagle sharks are proposed to be 162.7 mt dw (358,688 lb dw), 91 mt dw (200,619 lb dw), and 30.7 mt dw (67,681 lb dw), respectively (Table 2). The pelagic shark season would open on January 1, 2008 and would close when quotas are projected to be reached with a notification filed at the Office of the Federal Register by the AA, consistent with 50 CFR 635.28(b)(2). If Amendment 2 to the HMS FMP is not final and effective by the start of the 2008 second trimester, the pelagic shark fishery would open on May 1, 2008, with the baseline quotas.

TABLE 2. SEASONS AND QUOTAS FOR LCS, SCS AND PELAGIC SHARKS FOR THE FIRST TRIMESTER OF 2008. ALL QUOTAS AND LANDINGS ARE IN METRIC TONS, DRESSED WEIGHT.

Species Group (Annual Quota)	Region (Allocation)	Base Tri. Quota	2007 1st Tri. Quota	2007 1st Tri. Landings	+/- Under/ Over Harvest	2008 Adjusted Quota	Proposed Season
Large Coastal Sharks (1,017)	Gulf of Mexico (52 %)	176.1	62.3	187.4	-125.1	51 (112,435 lb dw)	CLOSED
	South Atlantic (41 %)	138.9	-112.9	9.7	-122.6	16.3 (35,935 lb dw)	CLOSED
	North Atlantic (7 %)	2.8	7.9	0	+7.9	10.7 (23,589 lb dw)	CLOSED
Small Coastal Sharks (454)	Gulf of Mexico (48 %)	72.6	15.1	14.5	+0.6	73.2 (161,377 lb dw)	Jan. 1, 2008 - To be determined
	South Atlantic (49 %)	74.1	308.4	27.6	+280.8	354.9 (782,413 lb dw)	
	North Atlantic (3 %)	.54	18.8	0	+18.8	19.3 (42,549 lb dw)	
Blue Sharks (273)	No regional quotas	91.0	30.7	91.0	Not applicable	91.0 (200,618 lb dw)	Jan. 1, 2008 - To be determined
Porbeagle sharks (92)		30.7		30.7		30.7 (67,681 lb dw)	
Pelagic Sharks other than Porbeagle or blue (488)		162.7		162.7		162.7 (358,688 lb dw)	

Request for Comments

Comments on this proposed rule may be submitted at the public hearing (oral or written), via email, mail, or fax until October 31, 2007. NMFS will hold one public hearing (see **DATES** and **ADDRESSES**) to receive comments from fishery participants and other members of the public regarding this proposed rule. This hearing will be physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to LeAnn Southward Hogan at (301) 713–2347 prior to the hearing date. The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they register to speak; and the attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose. Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting. For individuals unable to attend a hearing, NMFS also solicits written comments on this proposed rule (see **DATES** and **ADDRESSES**).

Classification

NMFS has preliminarily determined that this action is consistent with section 304(b)(1) of the Magnuson-Stevens Act, including the National Standards, and other applicable law.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

In compliance with Section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of the IRFA is below. The full IRFA and analysis of economic and ecological impacts, are available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act, to adjust the LCS and SCS regional and trimester quotas and propose season lengths for LCS, SCS, and pelagic sharks for the first trimester of 2008 based on under- and overharvests that occurred during the first trimester of 2007. This rule does not change the overall annual base quotas.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objective of the proposed rulemaking is, to ensure that the season lengths and quotas for the first trimester of 2008 for LCS, SCS, and pelagic sharks are in place by January 1, 2008, and remain effective until Amendment 2 of the HMS FMP is effective. There will be no regulatory action to determine quotas and season lengths for LCS, SCS and pelagic sharks for the 2008 second trimester season even if Amendment 2 is finalized after May 1, 2008, the start of the second trimester season.

Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. This rule could directly affect commercial shark fishermen on the Atlantic Ocean in the United States. There are approximately 529 (231 directed and 298 incidental) shark permit holders. Additionally, approximately 269 commercial shark dealers could be indirectly affected by this proposed rule. All of these permit holders and dealers are considered small entities according to the Small Business Administration(s standard for defining a small entity. Other small entities involved in HMS fisheries such as processors, bait houses, and gear manufacturers might also be indirectly affected by the proposed regulations.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603 (b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)).

One of the requirements of an IRFA, under Section 603 of the Regulatory Flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c)(1) through (4)) lists four categories for alternatives that must be considered. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed three different alternatives in this proposed rulemaking and provides justification for selection of the preferred alternative to achieve the desired objective.

The alternatives included: maintain existing procedures for LCS and SCS quota management (alternative 1, No Action), combine the LCS regions and quotas and maintain status quo for SCS (alternative 2), and close all regions to LCS fishing during the 2008 first trimester season until Amendment 2 to the HMS FMP effective and maintain modified status quo for SCS (alternative 3, preferred).

Alternative 1 is considered the no action alternative since it would maintain existing procedures for addressing regional trimester over– and underharvests of LCS and SCS when establishing the regional quotas and seasons for the first trimester season of 2008. This alternative is not preferred in part because it could result in negative ecological impacts for LCS compared to the preferred alternative. The unexpected magnitude of the 2006 first trimester overharvest would result in no commercial fishing for LCS in the South Atlantic region during the first trimester of 2008 for the second consecutive year since the available adjusted quota of 16.3 mt dw would be taken in approximately one day.

If not for the overharvests in 2006 and 2007, the LCS 2008 first trimester base quota allocation would have been 138.9 mt dw in the South Atlantic region. Instead, the adjusted quota under the no action alternative would be 16.3 mt dw, which is 122.6 mt dw less than it would have been under the base quota allocation. However, 112.9 mt dw of the 122.6 mt dw total overharvest was carried over from the 2006 first trimester overharvest. Despite a closure in the South Atlantic region during the 2007 first trimester season, 9.7 mt dw was landed by fishermen fishing in state waters. The 9.7 mt dw, when added to the 112.9 mt dw 2006 overharvest quota equals 122.6 mt dw of overharvest that must be accounted for during the 2008 first trimester. Because of the small 2008 adjusted quota, no fishing season is feasible due to safety at sea concerns and potential derby fishing conditions. Based on the ex–vessel prices per pound dw by region in 2006 of $0.46 per pound dw of LCS flesh and $16.20 per pound for shark fins in the South Atlantic region, the value of the 122.6 mt dw reduction from the baseline quota allocation is approximately $53,576 for LCS flesh (95 percent of the quota weight) and $99,306 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the total 2006 and 2007 overharvest is estimated to have a direct revenue impact on the South Atlantic regional commercial shark fishery of approximately $152,882. Based on the ex–vessel prices listed above for LCS flesh and fins, the overharvest of 9.7 mt dw from the first trimester of 2007 is approximately $12,096. Based on the January catch rates and the amount of quota taken during federal closures, the available quota for 2008 is 16.3 mt dw, which would likely be taken in one day. Therefore, the South Atlantic region would be closed during the 2008 first trimester season. In addition to the lost revenue from the 2006 and 2007 overharvests, the closure would lead to an additional loss in revenue of

approximately $7,121 for LCS flesh (95 percent of the 16.3 mt dw) and $13,122 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, a closure during the 2008 first trimester season in the South Atlantic region for two consecutive years would result in continued disrupted revenue flows and negative economic impacts.

If not for the 125.1 mt dw overharvest in the first trimester of 2007 in the Gulf of Mexico region, the 2008 first trimester available quota would have been 176.1 mt of LCS in the Gulf of Mexico region. Due to this overharvest, the adjusted LCS quota is 51 mt dw in the Gulf of Mexico region. To estimate the value of changes in revenues from the 2008 available quota, the actual ex–vessel prices received for 2006 were available, those prices were used to calculate the "extra" revenues generated from the overharvest in the first trimester of 2007. Based on the ex–vessel prices per pound dw by region in 2006 of $0.47 per pound dressed weight of LCS flesh and $20.65 per pound for shark fins in the Gulf of Mexico region, the value of the 125.1 mt dw reduction from the baseline quota allocation is approximately $55,855 for LCS flesh (95 percent of the quota weight) and $129,166 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the 2007 first trimester overharvest is estimated to have a direct revenue impact on the Gulf of Mexico regional commercial shark fishery of approximately $185,021. However, the 125.1 mt dw overharvest was primarily due to landings from fishermen fishing in state waters. As such, federal fishermen did not benefit from the overharvest in the 2007 first trimester season. With a 2008 adjusted quota of 51 mt dw, the Gulf of Mexico region would have a short season that would last for five days. Using the ex–vessel prices as above for the Gulf of Mexico region , the value of this 51 mt dw adjusted quota for the first trimester of 2008 is approximately $22,772 for LCS flesh (95 percent of the quota weight) and $52,658 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore the estimated revenue for the 2008 first trimester season would be approximately $75,430. While there may be slight positive economic impacts as a result of a limited LCS season in the Gulf of Mexico coupled with a South Atlantic LCS closure causing prices to increase, the intense fishing period may also cause a temporary glut in the market for that period of time for shark products. It could also lead to less efficient fishing operations that may reduce the quality of the shark products landed causing a reduction in ex–vessel prices of shark products. Overall, the small amount of LCS quota available and short season would result in negative economic impacts in the Gulf of Mexico region.

The LCS quota in the North Atlantic region for the first trimester season of 2008 would be 10.7 mt dw. The ex–vessel prices only provide the value of LCS flesh in the North Atlantic region and not the value for shark fins, therefore an average of $18.43 was taken of the ex–vessel price for shark fins in the South Atlantic and Gulf of Mexico regions to calculate approximate revenue from the available quota. The approximate value of the 10.7 mt dw quota allocation for the 2008 first trimester season in the North Atlantic region would be $13,415.

Overall, the negative economic impact of the reduced LCS quota for the Gulf of Mexico region would result in $75,430 in reduced revenues for the first trimester of 2008. Due to the LCS closure in the South Atlantic region, a negative economic impact totaling $20,243 in lost revenues would occur. There were extra revenues received worth $337,903 as a result of the extensive LCS overharvests in the South Atlantic and Gulf of Mexico regions. Since a majority of these overharvest landings were from state landings, particularly in the Gulf of Mexico region, many federal fishermen did not benefit from this overharvest revenue. Some of the impacts from these reduced revenues might be mitigated somewhat for vessels that can fish for SCS and pelagic sharks or in other HMS and non–HMS fisheries. However, these opportunities would likely be limited and result in additional costs associated with adjusting current fishing practices.

With regards to SCS, alternative 1 would maintain existing procedures for addressing regional trimester over– and underharvests for SCS when establishing the regional quotas and seasons for the first trimesters of 2008. There were no overharvests of SCS in any region during the 2007 first trimester season. No change in economic impacts would be realized in the North Atlantic, South Atlantic, and Gulf of Mexico regions since these regions would be open, with ample quota, during the first trimester of 2008 under the no action alternative. Based on the ex–vessel price per pound per of SCS in the North Atlantic, South Atlantic, and Gulf of Mexico regions potential revenue for flesh would be $0.43, $0.55, and $0.53, respectively. Potential revenue from SCS may help offset lost revenue in the LCS fishery due to short seasons and a closure.

NMFS does not prefer the no action alternative because the substantially shortened LCS season in the Gulf of Mexico region might lead to derby–style fishing and safety at sea concerns as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. If the Gulf of Mexico region was open for five days as proposed under the no action alternative, overfishing could continue to occur leading to negative ecological impacts to shark species that are overfished.

Alternative 2 would combine the North Atlantic, South Atlantic and Gulf of Mexico regions for the LCS fishery into one region. The adjusted quota for the one LCS region would be 78 mt dw, which is 239.8 mt dw less than the base quota allocation in each region added together (317.8 mt dw). Based on total ex–vessel annual revenues in 2005 (Table 6.3) of $0.48 per pound dress weight of flesh and $17.94 per pound of shark fins in all regions combined, the value of the 239.8 mt dw reduction from the baseline quota allocation in all the regions is approximately $109,349 for LCS flesh (95 percent of the quota weight) and $215,101 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the 2007 first trimester overharvest in the South Atlantic and Gulf of Mexico regions is estimated to have a direct revenue impact on the LCS commercial fishery, when combining the regions, of approximately $324,450. The value of the 78 mt dw combined quota that would allow the season to be open for six days is approximately $35,568 for LCS flesh (95 percent of the quota weight) and $69,966 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the estimated revenue for the LCS 2008 first trimester season under alternative 2, with all regions combined would be approximately $105,534. Derby style fishing conditions and safety at sea concerns may occur through the shortened season causing negative social impacts. The six day season may cause a temporary glut in the market and therefore a reduction in the ex–vessel price of shark products or less efficient fishing operations thus reducing the quality of the shark products landed. Under these conditions, it is likely the estimated revenue for all regions would be less than $105,534. Combining the regions would likely have negative economic impacts on regions that do not have sharks present year round. The North Atlantic region may be disadvantaged as a result of combining the three regions into one region. Dealers in all regions,

but particularly in the North Atlantic region, would also be affected, possibly even more so than vessels, as the likelihood of having shark products consistently would be decreased. Overall, negative economic impacts would result from the small amount of LCS quota available and the short season in all regions. Under alternative 2, the SCS fishery would remain the same as in the no action alternative and no adverse economic impacts are expected since these regions would be open, with ample quota, throughout the entire first trimester of 2008.

NMFS did not prefer this alternative because negative consequences of establishing a single region combined with a substantially shortened season might include derby–style fishing and safety at sea concerns as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. Additionally, negative ecological impacts to overfished shark species could occur if all regions were combined and opened for a short time period as proposed under Alternative 2.

Alternative 3, the preferred alternative would close the LCS fishery in all regions until Amendment 2 to the HMS FMP is effective. The SCS fishery would be open in all three regions on January 1, 2008, and no adverse economic impacts are expected since these regions would be open, with ample quota, throughout the first trimester of 2008. Under this alternative, the North Atlantic, South Atlantic, and Gulf of Mexico regions would be closed to LCS fishing for entire first trimester season and possibly longer depending on when Amendment 2 becomes effective. However, under the no action alternative, the South Atlantic region would be closed during the 2008 first trimester and the Gulf of Mexico region would only be open for five days starting January 1. The North Atlantic region would be open for the entire 2008 first trimester season (although, from 2004–2007 only an average of 0.4 mt dw was landed in this region during the entire first trimester season). Because LCS are not typically in the North Atlantic region during the first trimester and due to the small landings in this region during the first trimester, it is not expected that the North Atlantic would benefit economically from the 10.7 mt dw of quota available for the 2008 first trimester. Therefore, closing all three regions as proposed in the preferred alternative would not have a much greater economic impact than the no action alternative. The estimated revenue from the 51 mt dw quota in the Gulf of Mexico for the 2008 first trimester season under alternative 1, would be approximately $75,430, which would be the approximate revenue lost due to all regions being closed to LCS fishing during the 2008 first trimester season. The South Atlantic region would also experience economic impacts associated with this alternative, however, these impacts would not be different from those described in the no action alternative. Atlantic shark fishermen may pursue other options as a result of closing the LCS fishery for the 2008 first trimester including transferring fishing effort to other fisheries for which they are permitted, acquiring new permits to participate in other fisheries or relinquishing their permits and leaving the fishing industry.

NMFS prefers this alternative because overall, the ecological benefits of keeping the LCS fishery closed in all regions until Amendment 2 to the HMS FMP is effective may outweigh the economic impacts associated with the closure due to the overfished status of sandbar and dusky sharks. The LCS closure would also provide positive ecological benefits to other shark species, along with any incidental and protected species.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 25, 2007.

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.27, paragraphs (b)(1)(i) and (b)(1)(vi)(A) introductory text are revised to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(i) *Fishing seasons.* The commercial quotas for large coastal sharks, small coastal sharks, and pelagic sharks will be split among three fishing seasons: January 1 through April 30, May 1 through August 31, and September 1 through December 31. NMFS may consider merging or closing any of the fishing seasons pursuant to paragraph (b)(1)(vi) of this section.

* * * * *

(vi) *Annual adjustments.* (A) NMFS will adjust the next year(s fishing season quotas for large coastal, small coastal, and pelagic sharks to reflect actual landings during any fishing season in any particular region. For example, a commercial quota underharvest or overharvest in the fishing season in one region that begins January 1 will result in an equivalent increase or decrease in the following year(s quota for that region for the fishing season that begins January 1. NMFS may consider merging or closing any of the fishing seasons and relevant quotas in any region when there is limited available quota in one or more seasons.

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[FR Doc. E7–19378 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 189
Monday, October 1, 2007

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

Farm Service Agency

Request for Revision and Extension of a Currently Approved Information Collection; Request for Aerial Photography

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Farm Service Agency (FSA) to request a revision and extension of an information collection currently used in support of the FSA Aerial Photography Program. The FSA Aerial Photography Field Office (APFO) uses the information from this form to collect the customer and photography information needed to produce and ship the various products ordered.

DATES: Comments on this notice must be received on or before November 30, 2007 to be assured consideration.

Additional Information or Comments: Contact David Parry, Supervisor, USDA, Farm Service Agency, APFO Customer Service Section, 2222 West 2300 South Salt Lake City, Utah 84119–2020, (801) 975–3503; e-mail *david.parry@slc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Request for Aerial Photography.

OMB Control Number: 0560–0176.

Expiration Date: February 29, 2008.

Type of Request: Revision and Extension of Currently Approved Information Collection.

Abstract: The information collected under OMB Control Number 0560–0176, as identified above, is needed to enable the Department of Agriculture to effectively administrate the Aerial Photography Program. APFO has the authority to coordinate aerial photography, remote sensing programs and the aerial photography flying contract programs. The digital and film imagery secured by FSA is public domain and reproductions are available at cost to any customer with a need. All receipts from the sale of aerial photography products and services are retained by FSA. The FSA–441, Request for Aerial Photography, is the form FSA supplies to its customers for placing an order for aerial imagery products and services.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 3.3 hours per response.

Respondents: Farmers, Ranchers and other USDA customers who wish to purchase imagery products and services.

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 8,000 hours.

Proposed topics for comment include: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information from those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to David Parry at the address listed above.

All comments will become a matter of public record.

Signed at Washington, DC, on September 20, 2007.

Teresa C. Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E7–19262 Filed 9–28–07; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Arctic National Refuge Recreation Visitor Study

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new information collection, Arctic National Wildlife Refuge Recreation Visitor Study—2008.

DATES: Comments must be received in writing on or before November 30, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Alan E. Watson, Aldo Leopold Wilderness Research Institute, USDA Forest Service Rocky Mountain Research Station, 790 E. Beckwith Ave., Missoula, MT 59801.

Comments also may be submitted via facsimile to 406–542–4196 or by e-mail to: *awatson@fs.fed.us*.

The public may inspect comments received at the Aldo Leopold Wilderness Research Institute, USDA Forest Service Rocky Mountain Station, 790 E. Beckwith Ave., Missoula, MT during normal business hours. Visitors are encouraged to call ahead to 406–542–4197 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Alan E. Watson, Aldo Leopold Wilderness Research Institute at 406–542–4197. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Arctic National Wildlife Refuge Recreation Visitor Study—2008.

OMB Number: 0596–NEW.

Type of Request: New.

Abstract: The Aldo Leopold Wilderness Research Institute in Missoula, Montana, works under an interagency agreement with the U.S. Fish & Wildlife Service (Department of the Interior) to provide information to support management planning for public wild lands. Management of specific refuges is directed by laws,

policies, and Comprehensive Conservation Plans. The Wilderness Act of 1964 directs the National Wilderness Preservation System be managed to protect natural wilderness conditions and to provide outstanding opportunities for the public to find solitude or primitive and unconfined types of recreational experiences. The Arctic National Wildlife Refuge contains 8,000,000 acres of federally protected wilderness (Molly Beattie Wilderness) and over 11,000,000 acres of land and water that are managed for multiple values (subsistence, wildlife, water quality, scenic values, etc.), and mandated to provide recreation experiences to visitors under a number of laws, including the National Wildlife Refuge System Administration Act, (as amended by the National Wildlife Refuge System Improvement Act), the Refuge Recreation Act, and the Alaska National Interest Lands Conservation Act.

To help meet Federal agencies' mandates related to recreation, scientists at the Aldo Leopold Wilderness Research Institute will periodically monitor and report, to managers and the public, visitor use and user characteristics, and visitor feedback on management actions on federal lands. Agency personnel will use the collected information to ensure that visitors' recreational activities do not harm the natural resources of the refuge and that wilderness-type recreation experiences are protected. The agency intends to record visitor responses in 2008 for comparison to the most recent survey (1977 prior to Refuge status and Wilderness designation), and expand the scope of the survey to include visitor feedback to understand major dimensions of experiences and factors that influence those experiences. Potential influences include encounters with other visitors, subsistence users, researchers, and agency personnel and information sources used to plan the trip. The data from this information collection will be stored at the Aldo Leopold Wilderness Research Institute in Missoula, Montana. Scientists working at the Research Institute will conduct the data analysis.

The U.S. Fish & Wildlife Service will use information from this collection to:

(1) Understand;

a. Individual visitor demographics, frequency of visits, and residence;

b. Visit characteristics, such as whether they are hunting or not, river floating or not, method of access, size of group, and difficulty in finding campsites, evaluations of conditions encountered, and feedback on information available for trip planning;

(2) Gain an understanding of how the agency's management of the Arctic National Wildlife Refuge and other potential facilitating and constraining factors influence a visitor's recreation experience;

(3) Help understand how to educate recreation visitors so they do not leave impacts from their visits, such as damaged vegetation, litter, polluted lakes and streams, and wildlife disturbance while engaging in high quality, safe, responsible recreation visits; and

(4) Provide information that may assist in revision of the Arctic National Wildlife Refuge Comprehensive Conservation Plan.

Respondents will be recreation visitors to the Arctic National Wildlife Refuge. Visitors will be contacted as they enter the Arctic Refuge or upon exit and will be provided with a mail-back postcard that offers them alternative methods of response to the survey: (1) Mail the postage-paid postcard to the Leopold Institute with a name and address in order to receive a mail-back survey, (2) mail the postage paid postcard to the Leopold Institute with an electronic e-mail address to receive an electronic form of the survey, or (3) keep the postcard that contains a web address for on-line completion of the survey. All responses will be voluntary. Data collected in this information collection are not available from other sources and have not been collected since 1977.

This study will only ask recreation visitors (non-local, non-subsistence users) questions about their recreation visit, their personal demographics relevant to education and service provision, and factors that have influenced or are likely to influence their recreation visits. Survey respondents will be told that this information is voluntary, in confidence (their names will not be connected to their responses in any way). The Survey will not include questions related to oil exploration or development within the boundaries of the Refuge.

Estimate of Annual Burden: 20 minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 900.

Estimated Annual Number of Responses per Respondent: Once.

Estimated Total Annual Burden on Respondents: 300 hours.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the additional use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: September 21, 2007.

Ann M. Bartuska,

Deputy Chief for Research & Development.

[FR Doc. E7–19253 Filed 9–28–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bitterroot National Forest, Ravalli County, MT, Travel Management Planning

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environment impact statement.

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Forest Service, Bitterroot National Forest will prepare a Draft Environmental Impact Statement to disclose the environmental consequences of the proposed travel management planning. The proposed action would provide approximately 2,487 miles of wheeled motorized recreation opportunities on the Bitterroot National Forest while maintaining 1,030,405 acres of non-motorized areas. The proposed action would also provide approximately 341 miles of open snowmobile routes and 608,031 acres open to snowmobile use.

DATES: Specific comments on the proposed action should be received by November 23, 2007. The draft environmental impact statement is expected to be available for the public in August 2008, and the final environmental impact statement is expected to be available in May 2009. The Motor Vehicle Use Map is scheduled to be available on or before December 2009.

ADDRESSES: Submit written, faxed, or e-mail comments by: (1) Mail—Travel Management Planning Team; Stevensville Ranger District; 88 Main; Stevensville, Montana 59870 (2) fax—(406) 777–7423; (3) e-mail—comments-*northern-bitterroot@fs.fed.us*

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Stevensville District Ranger (406) 777–5461 or Sandy Mack, Project Team Leader (406) 777–7415 (see **ADDRESSES** above)

SUPPLEMENTARY INFORMATION:

Purpose

The objectives of the project are to: 1. Change the existing motorized recreation designations provide quality motorized recreation experiences while protecting natural resources and providing non-motorized recreation opportunities.

- Provide motorized loop routes that offer a quality recreational experience, with the focus on using old roads and linkages with only minor resource impacts.
- Provide areas for non-motorized recreation experiences.
- Close routes to motorized use that have resource concerns that can't reasonably be mitigated.

2. Close routes that offer little value as a motorized experience and have resource concerns.

3. Clarify and simplify the motor vehicle use designations.

4. Comply with the 2005 Travel Management Rule.

Proposed Action

The proposed action establishes clear, standardized designations of where motorized recreation is appropriate, sustainable and desirable on the Bitterroot National Forest. It would provide 2,487 miles of routes open to wheeled motorized use including: 25 mi. of roads open to all vehicles, yearlong or seasonal (mixed-motorized); 1,479 mi. of roads open to highway legal vehicles only, yearlong or seasonal; 746 mi. of trails open to vehicles 50" or less in width, yearlong or seasonal; 237 mi. of trails open to motorcycles, yearlong or seasonal. It would also provide 1,030,405 acres of non-motorized use (½ mile or more from wheeled motorized use designations) across the Forest. The proposed action would provide 58 miles of groomed snowmobile trails, 341 miles of open snowmobile routes and 608,031 acres open to snowmobile use.

Alternatives to the proposed action will be developed based on public comments.

Responsible Official

The responsible official for the Travel Management Planning Project is Dave T. Bull, Forest Supervisor, Bitterroot National Forest 1801 N. First, Hamilton 59840–3114.

Nature of Decision To Be Made

The Responsible Official will determine whether or not to proceed with the proposed motorized use designations.

Scoping Process

Comments will be accepted during the 60-day scoping period as described in this notice of intent. To assist in commenting, a coping package providing more detailed information on the project proposal has been prepared and is available to interested parties. Contact Sandy Mack, Project Leader at the address listed in this notice of intent if you would like to receive a copy. The information is also available on the web at *www.fs.fed.us/r1/bitterroot/projects/motorized rec.shtml*, and at each District Office and at the public libraries in Darby, Hamilton, Stevensville and Missoula. the Forest will schedule public meetings in November, prior to the end of the public comment period. Meeting times and locations will be announced at a later date.

Comment Requested

This notice of intent initiates the scoping process that guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be at least 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 24 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909 15, Section 21)

Dated: September 20, 2007.

Barry Paulson,

Deputy Forest Supervisor.

[FR Doc. 07–4805 Filed 9–28–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Inyo National Forest, California, Inyo National Forest Motorized Travel Management EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Inyo National Forest (INF) will prepare an Environmental Impact Statement to disclose the impacts associated with the following proposed actions: 1. The prohibition of wheeled motorized vehicle travel off designated National Forest System (NFS) roads, NFS trails and areas by the public except as allowed by permit or other authorization. 2. Changes in the INF Transportation System, including

the addition of approximately 925 miles of existing unauthorized (non-system) routes to the current system of National Forest System (NFS) roads and motorized trails and minor changes to existing motor vehicle restrictions.

DATES: The comment period on the proposed action will extend 45 days from the date the Notice of Intent is published in the **Federal Register**. Completion of the Draft Environmental Impact Statement (DEIS) is expected in March 2008 and the Final Environmental Impact Statement (FEIS) is expected in October 2008.

ADDRESSES: Send written comments to: Travel Management Team, Inyo National Forest, 351 Pacu Lane, Suite 200, Bishop, CA, 93514. Comments may also be mailed electronically to: *comments-pacificsouthwest-inyo@fs.fed.us*. Please ensure that "Route Designation" occurs somewhere in the subject line.

FOR FURTHER INFORMATION CONTACT: Marty Hornick, Inyo National Forest, 351 Pacu Lane, Suite 200, Bishop, CA, 93514. Phone: (760) 873–2400. E-mail: *comments-pacificsouthwest-inyo@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Background

Over the past few decades, the availability and capability of motorized vehicles, particularly off-highway vehicles (OHVs) and sport utility vehicles (SUVs) has increased tremendously. Nationally, the number of OHV users has climbed sevenfold in the past 30 years, from approximately 5 million in 1972 to 36 million in 2000. California is experiencing the highest level of OHV use of any state in the nation. There were 786,914 ATVs and OHV motorcycles in California were the highest in the U.S. for the last 5 years. Four-wheel drive vehicle sales in California also increased by 1500% to 3,046,866 from 1989 to 2002.

Unmanaged OHV use has resulted in unplanned roads and trails, erosion, watershed and habitat degradation, and impacts to cultural resource sites. Compaction and erosion are the primary effects of OHV use on soils. Riparian areas and aquatic dependent species are particularly vulnerable to OHV use. Unmanaged recreation, including impacts from OHVs, os one of "Four Key Threats Facing the Nation's Forests and Grasslands."

(USDA Forest Service, June 2004).

On August 11, 2003, the Pacific Southwest Region of the Forest Service entered into a Memorandum of Intent (MOI) with the California Off-Highway Motor Vehicle Recreation Commission, and the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation. That MOI set in motion a region-wide effort to "Designate OHV roads, trails, and any specifically defined open areas for motorized wheeled vehicles on maps of the 19 National Forests in California by 2007." On November 9, 2005, the Forest Service published final travel management regulations in the **Federal Register** (FR Vol. 70, No. 216–Nov. 9, 2005, pp 68264–68291). This final Travel Management Rule requires designation of those roads, trails, and areas that are open to motor vehicle use on National Forests. Designations will be made by class of vehicle and, if appropriate, by time of year. The final rule prohibits the use of motor vehicles off the designated system as well as use of motor vehicles on routes and in areas that are not designated.

On some NFS lands, long managed as open to cross-country motor vehicle travel, repeated use has resulted in unplanned, unauthorized, roads and trails. These routes generally developed without environmental analysis or public involvement, and do not have the same status as NFS roads and NFS trails included in the forest transportation system. Nevertheless, some unauthorized routes are well-sited, provide excellent opportunities for outdoor recreation by motorized and non-motorized users, and would enhance the National Forest system of designated roads, trails and areas. Other unauthorized routes are poorly located and cause unacceptable impacts. Only NFS roads and NFS trails can be designated for wheeled motorized vehicle use. In order for an unauthorized route to be designated, it must first be added to the forest transportation system.

In accordance with the MOI, the INF recently completed an inventory of unauthorized routes on NFS lands and identified approximately 1830 miles of unauthorized routes. The INF then used an interdisciplinary process to conduct travel analysis that included working with the public to determine whether any of the unauthorized routes should be proposed for addition to the INF transportation system. Roads, trails and areas that are currently part of the INF transportation system and are open to wheeled motorized vehicle travel will remain designated for such use except as described below under Proposed Action. This proposal focuses only on the prohibition of wheeled motorized vehicle travel off designated routes and needed changes to the INF transportation system. These changes include minor changes to existing motor vehicle restrictions and the addition to the INF transportation system of some existing unauthorized routes that provide access to dispersed recreation opportunities and a diversity of motorized recreation opportunities. The proposed action is being carried forward in accordance with the Travel Management Rule (36 CFR Part 212).

In accordance with the rule, following a decision on this proposal, the Inyo National Forest will publish a Motor Vehicle Use Map (MVUM) identifying all INF roads, trails and areas that are designated for motor vehicle use. The MVUM shall specify the classes of vehicles and, if appropriate, the times of year for which use is designated.

Purpose and Need for Action

The following needs have been identified for this proposal:

1. There is a need for regulation of unmanaged wheeled motorized vehicle travel by the public. In their enjoyment of the National Forest, motorized vehicle users have created numerous unauthorized routes. The number of such routes continues to grow each year with many routes having environmental impacts and safety concerns that have not been addressed. Currently, motor vehicle use is restricted by a 2007 Temporary Forest Order which limits the use of wheeled motorized vehicles by the public to existing routes shown on the forest order exhibit map. This includes routes that are currently on the INF transportation system, as well as others which have not yet been evaluated for suitability for continued motorized use.

The Travel Management Rule, 36 CFR Part 212, provides policy for ending the trend of unauthorized route proliferation and managing the Forest transportation system in a sustainable manner through designation of motorized NFS roads, trails and areas, and the prohibition of cross-country travel.

2. There is a need for limited changes and additions to the INF transportation system to:

2.1. Provide wheeled motorized access to dispersed recreation opportunities, such as camping, hunting, fishing, hiking, horseback riding and others

2.2. Provide a diversity of wheeled motorized recreational opportunities, such as travel in 4X4 vehicles, motorcycles, ATVs. passenger vehicles, etc.

It is Forest Service policy to provide a diversity of road and trail opportunities for experiencing a variety of environments and modes of travel

consistent with the National Forest recreation role and land capability (FSM 2353.03(2)).

In meeting these needs the proposed action must also achieve the following purposes:

A. Avoid impacts to cultural resources.

B. Provide for public safety.

C. Provide for a diversity of recreational opportunities.

D. Assure adequate access to public and private lands.

E. Provide for adequate maintenance and administration of designations based on availability of resources and funding to do so.

F. Minimize damage to soil, vegetation and other forest resources.

G. Avoid harassment of wildlife and significant disruption of wildlife habitat.

H. Minimize conflicts between wheeled motor vehicles and existing or proposed recreational uses of NFS lands.

I. Minimize conflicts among different classses of wheeled motor vehicle uses of NFS lands or neighboring federal lands.

J. Assure compatibility of wheeled motor vehicle use with existing conditions in populated areas, taking into account sound, emisions, etc.

K. Have valid existing rights of use and access (rights-of-way).

Proposed Action

1. Prohibition of wheeled motorized vehicle travel off the designated NFS roads, NFS trails and areas by the public except as allowed by permit or other authorization.

2. Additions to the National Forest Transportation System—The Inyo National Forest curerntly manages and maintains approximately 1240 miles of NFS roads within Inyo National Forest boundaries. Based on the stated purpose and need for action, and as a result of the recent travel analysis process, the INF proposes the addition of approximately 870 miles of unauthorized routes to its NFS roads, which will be open to all vehicles types, and 53 miles to its NFS motorized trails, of which approximately 16 miles will be open to motorcycle only, and 37 miles will be open to motorcycles and ATVs (<50″ width). Approximately 3 miles of the unauthorized routes proposed will be available for public motorized use only after mitigation measures have been completed, such as stabilization or reroutes away from areas of resource concern.

3. Limited Changes to the National Forest Transportation System—The INF proposes the conversion of 11 miles of NFS roads to NFS motorized trails. Approximately 4 miles will be limited to motorcycle use only; and 7 miles will be open only to motorcycles and ATVs less than 50″ in width.

Maps and tables describing the proposed action can found at: *http://www.fs.fed.us/r5/inyo/projects/ohvroute5.shtml.*

In addition, maps will be available for viewing at:

Inyo National Forest Supervisor's Office, 351 Pacu Lane, Bishop, CA

Eastern Sierra Interagency Visitor Center, Junction Hwy 395 & SR 136 (1 mile south of Lone Pine, CA)

Mammoth Welcome Center, Hwy 203 east of the Town of Mammoth Lakes, CA

Mono Basin Scenic Area Visitor Center, Hwy 395, Lee Vining, CA

Responsible Official

Marlene Finley, Acting Forest Supervisor, 351 Pacu Lane, Suite 200, Bishop, CA 93514

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to make changes to the existing Inyo National Forest Transportation System and prohibit cross country wheeled motorized vehicle travel by the public off the designated system. Once the decision is made, the Inyo National Forest will publish a Motor Vehicle Use Map (MVUM) identifying the roads, trails and areas that are designated for motor vehicle use. The MVUM shall specify the classes of vehicles and, if appropriate, the times of year for which use is designated.

Scoping Process

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

The Notice of Intent is expected to be published in the **Federal Register** on October 1, 2007. The common period on the proposed action will extend 45 days from the date the Notice of Intent is published in the **Federal Register.**

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in March 2008. EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will extend 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Inyo National Forest participate at that time.

The final EIS is scheduled to be completed in October 2008. In the final EIS, the Forest Service will respond to comments received during the 45-day comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision. Submission of comments in response to the draft EIS is a prerequisite for eligibility to appeal under the 36 CFR part 215 regulations.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them

and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the

To assist Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is helpful if the comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy for the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority; 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: September 24, 2007.

Marlene Finley,

Acting Forest Supervisor, Inyo National Forest.

[FR Doc. 07–4774 Filed 9–28–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF ARCTIC RESEARCH COMMISSION

Arctic Research Commission

[Docket No. USARC 07–081]

Notice of Meeting

September 14, 2007.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 84th meeting in Nome, AK on October 8–9, 2007. the Business Session, open to the public, will convene at 9 a.m. Monday, October 8, 2007 in Nome. AK. An Executive Session will follow adjournment of the Business Session.

The Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 83rd Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the meeting will be reports and updates on programs and research projects affecting the Arctic.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: John Farrell, Executive Director, US Arctic Research Commission 703–525–0111 or TDD 703–306–0090.

John Farrell,

Executive Director.

[FR Doc. 07–4830 Filed 9–28–07; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2002), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review:

Not later than the last day of October 2007[1], interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

Antidumping Duty Proceedings	Period
BRAZIL: Carbon and Certain Alloy Steel Wire Rod. A–351–832	10/1/06 - 9/30/07
CANADA: Carbon and Certain Alloy Steel Wire Rod. A–122–840	10/1/06 - 9/30/07
INDONESIA: Carbon and Certain Alloy Steel Wire Rod. A–560–815	10/1/06 - 9/30/07
ITALY: Pressure Sensitive Plastic Tape. A–475–059	10/1/06 - 9/30/07
MEXICO: Carbon and Certain Alloy Steel Wire Rod. A–201–830	10/1/06 - 9/30/07
MOLDOVA: Carbon and Certain Alloy Steel Wire Rod. A–841–805	10/1/06 - 9/30/07
REPUBLIC OF KOREA: Polyvinyl Alcohol. A–580–850	10/1/06 - 9/30/07
THE PEOPLE'S REPUBLIC OF CHINA: Barium Carbonate. A–570–880	10/1/06 - 9/30/07
THE PEOPLE'S REPUBLIC OF CHINA: Barium Chloride. A–570–007	10/1/06 - 9/30/07
THE PEOPLE'S REPUBLIC OF CHINA: Helical Spring Lock Washers. A–570–822	10/1/06 - 9/30/07

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

Antidumping Duty Proceedings	Period
THE PEOPLE'S REPUBLIC OF CHINA: Polyvinyl Alcohol.	
A–570–879	10/1/06 - 9/30/07
TRINIDAD AND TOBAGO: Carbon and Certain Alloy Steel Wire Rod.	
A–274–804	10/1/06 - 9/30/07
UKRAINE: Carbon and Certain Alloy Steel Wire Rod.	
A–823–812	10/1/06 - 9/30/07
Countervailing Duty Proceedings.	
BRAZIL: Carbon and Certain Alloy Steel Wire Rod.	
C–351–833	1/1/06 - 12/31/06
INDIA: Certain Line Paper Products[2].	
C–533–844	2/13/06 - 12/31/06
IRAN: Roasted In–Shell Pistachios.	
C–507–601	1/1/06 - 12/31/06
Suspension Agreements.	
RUSSIA: Uranium.	
A–821–802	10/1/06 - 9/30/07

[2] In the notice of opportunity to request administrative review that published on September 4, 2007 (72 FR 50657), we listed the period of review for Certain Line Paper Products from India (C-533-844) incorrectly. The correct period of review is listed above.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[3] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order–by-order basis, which exporter(s) the request is intended to cover.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration web site at http://ia.ita.doc.gov.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of October 2007. If the Department does not receive, by the last day of October 2007, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S. Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

[3] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

Dated: September 26, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 07–4858 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year ("Sunset") Reviews

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping and countervailing duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers the same orders.

EFFECTIVE DATE: October 1, 2007.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review(s) section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–437–804	731–TA–984	Hungary	Sulfanilic Acid	Brandon Farlander (202) 482–0182
A–471–806	731–TA–985	Portugal	Sulfanilic Acid	Brandon Farlander (202) 482–0182
C–437–805	701–TA–426	Hungary	Sulfanilic Acid	Brandon Farlander (202) 482–0182
Suspended Investigations.				
No Sunset Reviews of suspended investigations are scheduled for initiation in October 2007.				

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: "http://ia.ita.doc.gov/sunset/." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

For sunset reviews of countervailing duty orders, parties wishing the Department to consider arguments that countervailable subsidy programs have been terminated must include with their substantive responses information and documentation addressing whether the changes to the program were (1) limited to an individual firm or firms and (2) effected by an official act of the government. Further, a party claiming program termination is expected to document that there are no residual benefits under the program and that substitute programs have not been introduced. *Cf.* 19 CFR 351.526(b) and (d). If a party maintains that any of the subsidies countervailed by the Department were not conferred pursuant to a subsidy program, that party should nevertheless address the applicability of the factors set forth in 19 CFR 351.526(b) and (d). Similarly, parties wishing the Department to consider whether a company's change in ownership has extinguished the benefit from prior non–recurring, allocable, subsidies must include with their substantive responses information and documentation supporting their claim that all or almost all of the company's shares or assets were sold in an arm's length transaction, at a price representing fair market value, as described in the *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (*"Modification Notice"*). *See Modification Notice* for a discussion of the types of information and documentation the Department requires.

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

Dated: September 20, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–19339 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of Upcoming Sunset Reviews.

SUPPLEMENTARY INFORMATION:

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce ("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2007

The following Sunset Reviews are scheduled for initiation in November 2007 and willappear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Persulfates from the People's Republic of China (A–570–847) (2nd Review)	Juanita Chen (202) 482–1904
Countervailing Duty Proceedings.	
No Sunset Review of countervailing duty proceedings are scheduled for initiation in November 2007..	
Suspended Investigations.	
Fresh Tomatoes from Mexico (A–201–820)	Sally Gannon (202) 482–0162

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3--Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initition.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 20, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–19345 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–808]

Notice of Extension of Time Limit for the Preliminary Results of Administrative Review of the Suspension Agreement on Certain Cut–to-Length Carbon Steel Plate from Russia

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

ACTION: Notice of Extension of Time Limit for the Preliminary Results of Administrative Review of the Suspension Agreement on Certain Cut–to-Length Carbon Steel Plate from Russia.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the administrative review on the suspension agreement on cut–to-length carbon steel plate from Russia.

EFFECTIVE DATE: October 1, 2007.

FOR FURTHER INFORMATION CONTACT: Sally Gannon or Jay Carreiro, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0162 or (202) 482–3674.

EXTENSION OF PRELIMINARY RESULTS:

The Department published its notice of initiation of this review in the **Federal Register** on February 28, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 8969 (February 28. 2007). Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), the current deadlines are October 3, 2007 for the preliminary results and January 31, 2008 for the final results.

The Department finds that it is not practicable to complete the preliminary results by October 3, 2007. Because this is the first administrative review of this agreement since it was converted to a market–economy agreement in 2003, the Department needs additional time to complete its preliminary analysis. The Department must carefully consider the information submitted by JSC Severstal in this review and must address any novel issues which arise in the context of its examination of compliance with the suspension agreement's terms, a process which, to date, has not occurred in this segment of the proceeding. Therefore, the Department is extending the time limit for completing the preliminary results of the review until

January 31, 2008. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: September 24, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary, Office of Policy and Negotiations Import Administration,

[FR Doc. E7–19336 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of California at Irvine, et al., Notice of Consolidated Decision on Applications, for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue., NW, Washington, D.C.

Docket Number: 07–054. Applicant: University of California at Irvine, Irvine, CA. Instrument: Electron Microscope, Model JEM–1400. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 72 FR 50933, September 5, 2007.

Docket Number: 07–058. Applicant: Drexel University, Philadelphia, PA. Instrument: Electron Microscope, Model JEM–2100. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 72 FR 50933, September 5, 2007.

Docket Number: 07–060. Applicant: University of Pennsylvania School of Dental Medicine, Philadelphia, PA. Instrument: Electron Microscope, Model H–7650. Manufacturer: Hitachi High–Technologies Corp., Japan. Intended Use: See notice at 72 FR 50933, September 5, 2007.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Faye Robinson,

Director, Statutory Import Programs Staff Import Administration.

[FR Doc. E7–19330 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Notice and Call for Applications for the International Buyer Program for the Period January 1, 2009 Through December 31, 2009

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice and call for applications for the International Buyer Program for the period January 1, 2009 through December 31, 2009.

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with support for domestic trade shows by the International Buyer Program of the U.S. Department of Commerce (DOC). This announcement covers selection for International Buyer Program participation for Calendar Year 2009 (January 1, 2009 through December 31, 2009).

The International Buyer Program (IBP) was established to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The International Buyer Program emphasizes cooperation between the DOC and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance such as export counseling and market analysis to U.S. companies interested in exporting. The assistance provided to show organizers includes worldwide overseas promotion of selected shows to potential international buyers, end-users, representatives and distributors. The worldwide promotion is executed through the offices of the DOC United States and Foreign Commercial Service (hereinafter referred to as the Commercial Service) in more than 70 countries representing the United States' major trading partners, and also in U.S. Embassies in countries where the Commercial Service does not maintain offices. The Department expects to select approximately 40 shows for the January 1, 2009 through December 31, 2009 period from among applicants to the program. Shows selected for the International Buyer Program will provide a venue for U.S. companies interested in expanding their sales into international markets. Successful show organizer applicants will be required to enter into a Memorandum of Agreement (MOA) with the DOC. The MOA constitutes an agreement between the DOC and the show organizer specifying which responsibilities are to be undertaken by DOC as part of the IBP and, in turn, which responsibilities are to be undertaken by the show organizer. Anyone requesting application information will be sent a sample copy of the MOA along with the application and a copy of this **Federal Register** Notice. The responsibilities to be undertaken by DOC will be carried out by the Commercial Service.

DATES: Applications must be received within 60 days after the publication date of this **Federal Register** Notice.

ADDRESSES: International Buyer Program, Global Trade Programs, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., HCHB 2107, Washington, DC 20230. Telephone: (202) 482–4403; Facsimile: (202) 482–0872; e-mail: *John.Klingelhut@mail.doc.gov* (for deadline purposes, facsimile and e-mail applications will be accepted as interim applications, to be followed by signed original applications to be received within five (5) business days after the application deadline.

FOR FURTHER INFORMATION CONTACT: John Klingelhut, Acting Program Manager, International Buyer Program, HCHB 2002, Global Trade Programs, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230. Telephone (202) 482–4403; Fax: (202) 482–0871; E-mail: *John.Klingelhut@mail.doc.gov.*

SUPPLEMENTARY INFORMATION: The Commercial Service is accepting applications for the International Buyer Program for events taking place between January 1, 2009, and December 31, 2009. A participation fee of $8,000 for shows of five days or less is required. For shows more than five days in duration, or requiring more than one International Business Center, a participation fee of $14,000 is required. For shows ten days or more in duration, and/or requiring more than two International Business Centers, the participation fee will be negotiated, but shall not be less than $19,500.

Under the IBP, the Commercial Service seeks to bring together

international buyers with U.S. firms by selecting and promoting in international markets U.S. domestic trade shows covering industries with high export potential. Selection of a trade show is valid for one event, *i.e., a trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event.* Even if the event occurs more than once in the 12-month period covered by this announcement, the trade show organizer must submit a separate application for each event.

The Commercial Service will select approximately 40 events for support between January 1, 2009 and December 31, 2009. The Commercial Service will select those events that, in its judgment, most clearly meet the Commercial Service's statutory mandate to promote U.S. exports, especially those of small- and medium-size enterprises, and that best meet the selection criteria articulated below.

The Department selects trade shows to be International Buyer Program partners that it determines to be leading international trade shows appropriate for participation by U.S. exporting firms and for promotion in overseas markets by U.S. Embassies and Consulates. Selection as an International Buyer Program partner does not constitute a guarantee by the U.S. Government of the show's success. International Buyer Program partnership status is not an endorsement of the show organizer except as to its international buyer activities. Non-selection should not be viewed as a finding that the event will not be successful in the promotion of U.S. exports.

Exclusions: Trade shows that are either first-time or horizontal (non-industry specific) events will not be considered.

General Selection Criteria: The Commercial Service will select shows to be International Buyer Program partners that, in the judgment of the Commercial Service, best meet the following criteria:

(a) *Intellectual Property Rights Protection:* The trade show organizer includes in the terms and conditions of its exhibitor contracts provisions for the protection of intellectual property rights (IPR); has procedures in place at the trade show to address IPR infringement, which, at a minimum, provides information to help U.S. exhibitors procure legal representation during the trade show; and agrees to assist DOC in reaching and educating U.S. exhibitors on the Strategy Targeting Organized Piracy (STOP!), IPR protection measures available during the show, and the means to protect IPR in overseas markets, as well as in the United States.

(b) *Export Potential:* The trade show promotes products and services from U.S. industries that have high export potential, as determined by DOC sources, e.g., Commercial Service best prospects lists and U.S. export statistics (certain industries are rated as priorities by our domestic and international commercial officers in their Country Commercial Guides, available through the Web site, *http://www.export.gov*).

(c) *International Interest:* The trade show meets the needs of a significant number of overseas markets and corresponds to marketing opportunities as identified by the posts in their Country Commercial Guides (e.g. best prospect lists). Previous international attendance at the show may be used as an indicator.

(d) *Scope of the Show:* The event must offer a broad spectrum of U.S. made products and services for the subject industry. Trade shows with a majority of U.S. firms as exhibitors are given priority.

(e) *U.S. Content of Show Exhibitors:* Trade shows with exhibitors featuring a high percentage of U.S. products or products with a high degree of U.S. content will be preferred. Generally, to have "U.S. content" products and services to be exhibited should be produced or manufactured in the United States; or, (ii) if produced or manufactured outside of the United States, be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished product or service being exported. U.S.-sourced inputs that may be considered as contributing to U.S. content, to the extent that they are incorporated into the finished product or service being exported, may include but are not limited to: Materials; components; packaging; labor; production equipment and factory overhead; research & development; design; intellectual property; warehousing; distribution; sales; administration & management; advertising; and marketing and promotion.

(f) *Stature of the Show:* The trade show is clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally, and as a showplace for the latest technology or services in that industry or sector.

(g) *Exhibitor Interest:* There is demonstrated interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of U.S. exhibitors should be new-to-export (NTE) or seeking to expand their sales into additional export markets.

(h) *Overseas Marketing:* There has been a demonstrated effort to market prior shows overseas. In addition, the applicant should describe in detail the international marketing program to be conducted for the event, explaining how efforts should increase individual and group international attendance. (Planned cooperation with Visit USA Committees overseas is desirable. For more information on Visit USA Committees go to *http://www.tia.org/marketing/visit_usa_committees.html.*)

(i) *Logistics:* The trade show site, facilities, transportation services, and availability of accommodations at the site of the exhibition must be capable of accommodating large numbers of attendees whose native language will be other than English.

(j) *Cooperation:* The applicant demonstrates a willingness to cooperate with the Commercial Service to fulfill the program's goals and adhere to the target dates set out in the MOA and in the event timetables, both of which are available from the program office (see the **FOR FURTHER INFORMATION** section above on when, where, and how to apply). Past experience in the IBP will be taken into account in evaluating current applications to the program.

(k) *Delegation Incentives:* Show organizers should list or identify a range of incentives to be offered to delegations and/or delegation leaders recruited by the Commercial Service overseas posts. Examples of incentives to international visitors and to organized delegations include, but are not limited to: Waived or reduced admission fees; Special events, such as receptions, meetings with association executives, briefings, and site tours; and complimentary accommodations for leaders.

Legal Authority: The Commercial Service has the legal authority to enter into MOAs with show organizers (partners) under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 (MECEA), as amended (22 U.S.C. sections 2455(f) and 2458(c)). MECEA allows the Commercial Service to accept contributions of funds and services from firms for the purposes of furthering its mission. The statutory program authority for the Commercial Service to conduct the International Buyer Program is 15 U.S.C. 4724.

The Office of Management and Budget (OMB) has approved the information collection requirements of the application to this program under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

(OMB Control No. 0625–0151). Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

John Klingelhut,

Acting Program Manager, International Buyer Program, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. E7–19354 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods from Mexico: Notice of NAFTA Bi–National Panel's Final Decision, Amended Final Results of Full Sunset Review and Revocation of Antidumping Duty Order

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

SUMMARY: On September 5, 2007, the North American Free Trade Agreement ("NAFTA") Secretariat published in the **Federal Register** a notice of completion of panel review of the final remand redetermination made by the U.S. Department of Commerce (the Department) concerning the full sunset review of the antidumping duty order on oil country tubular goods (OCTG) from Mexico. *See North American Free–Trade Agreement, Article 1904 NAFTA Panel Reviews; Completion of Panel Review*, 72 FR 50934 (September 5, 2007). As there is now a final and conclusive decision in this case, we are amending the final results of the full sunset review and revoking the antidumping duty order on OCTG from Mexico.

EFFECTIVE DATE: October 1, 2007.

FOR FURTHER INFORMATION CONTACT: John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION: This case arises out of the Department's determination in the final results of the first sunset review covering entries for the five years following the publication date of the antidumping duty order, August 11, 1995. *See Oil Country Tubular Goods ("OCTG") from Mexico: Final Results of Sunset Review of Antidumping Order*, 66 FR 14131 (March 9, 2001) and accompanying Issues and Decision Memorandum ("*Final Results*"). In the *Final Results*, the Department determined that revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping.

Subsequent to the completion of the sunset review, Tubos de Aceros de Mexico, S.A. ("TAMSA") challenged the Department's findings pursuant to article 1904 of the NAFTA and requested that a Bi–National Panel review the final determination. From 2005 to 2007, the Panel issued multiple decisions remanding various aspects of the Department's decision to the agency. *See* NAFTA Panel decisions of February 11, 2005, February 8, 2006, July 28, 2006, January 17, 2007, and June 1, 2007.

On June 11, 2007, consistent with the Panel's order of June 1, 2007, the Department issued a remand redetermination where the Department "made a determination to the effect that the evidence on the record does not support a finding or likelihood of recurrence or continuation of dumping upon revocation of the antidumping duty order." *See Fifth Redetermination on Remand, Oil Country Tubular Goods from Mexico: Sunset Review*, (June 11, 2007) at page 2.

On July 19, 2007, the Panel affirmed the Department's fifth remand redetermination. *See NAFTA Final Decision*. The Panel issued its Notice of Final Panel Action on July 30, 2007.

Pursuant to Section 516A(g)(5)(B) of the Tariff Act of 1930, as amended (the Act), and consistent with the decision of the *United States Court of Appeals for the Federal Circuit in Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*") regarding publication requirements, the Department published its notice of the NAFTA Panel decision that was not "in harmony" with the Department's determination from the *Final Results*. *See Oil Country Tubular Goods from Mexico: Notice of NAFTA Panel Decision Not in Harmony with Final Results of Sunset Administrative Review*, 72 FR 49702 (August 29, 2007), with an effective date of August 9, 2007. The Department continued the suspension of liquidation of the subject merchandise pending the expiration of the period for requesting an Extraordinary Challenge Committee ("ECC"). We note that the period to request an ECC has expired and no ECC request has been filed.

On September 5, 2007, the NAFTA Secretariat published in the **Federal Register** its Notice of Completion of Panel Review. Therefore, because there is a final Panel decision in this case, the Department is amending the final sunset review and revoking the antidumping duty order on OCTG from Mexico.

Termination of Suspension of Liquidation

The Department is revoking the antidumping duty order on OCTG from Mexico, pursuant to section 751(d) of the Act. Pursuant to sections 751(d)(2) and 751(d)(3) of the Act, and 19 CFR 351.222(i)(2)(i), the effective date of revocation is August 11, 2000. The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse, on or after August 11, 2000, the effective date of revocation of this antidumping duty order.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with section 751(d)(2) and is published pursuant to section 777(i)(1) of the Act.

Dated: September 21, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–19325 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission Statement: Sub-Saharan Africa Trade Mission to Ghana, Nigeria, and South Africa; March 3–11, 2008

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. Commercial Service is organizing a Trade Mission to Sub-Saharan Africa March 3–11, 2008, to help U.S. firms find business partners and sell equipment and services in Accra, Ghana; Lagos, Nigeria; and Johannesburg, South Africa. Targeted

sectors include, but are not limited to, energy, health care, information technology, safety and security, and telecommunications. The Director General for the U.S. Commercial Service will lead the mission, which will include business-to-business matchmaking with local companies, marketing briefings, and meetings with key government officials.

Commercial Setting

U.S. Total trade with Sub-Saharan Africa increased 10 percent in the first half of 2007 from the same period in 2006, as both exports and imports grew. U.S. exports increased by 30 percent to 46.7 billion, driven mainly by increases in parts for oil field equipment, vehicles and parts, aircraft, wheat, platforms for offshore oil drilling, non-crude oil, and medical equipment. Of the top five African destinations for U.S. products, exports to South Africa rose by 8 percent and to Nigeria by 42 percent. As the markets in Sub-Saharan Africa continue to show substantial growth and potential—encompassing a burgeoning consumer base of 650 million people—Ghana, Nigeria, and South Africa stand out as particularly advantageous destinations for U.S. exporters seeking to leverage business opportunities in this exciting region.

Market Overview

Ghana

A strong multiparty democracy, Ghana has long served as a model for other African nations due to its free and fair elections and rule of law. Accordingly, Ghana offers not only an increasingly sophisticated market of 22 million consumers but also a solid platform from which to access west Africa's regional market of 250 million potential customers. Ghana has qualified for Millennium Challenge Account funds, available only to countries that have adopted good governance policies. In 2006 Ghana ranked among the top 10 reforming countries in the world. Its per capita output is among the highest in West Africa, and its steady economic growth over the past four years—6.2 percent in 2006—is expected to continue, driven by industry and services.

Ghana is in the midst of an energy crisis, controlling an estimated 600-megawatt (MW) demand deficit through load shedding. With upcoming completion of the West African Gas Pipeline, which will provide relatively inexpensive gas for industrial usage, the government plans to increase generating capacity to 2600MW, primarily through gas-fired plants financed by independent power producers. Plans to restructure the electricity sector include the eventual privatization of Tema plant operations and allowing more private-sector thermal generation. The government is to spend $470 million in the next three years to improve energy generation and has signed purchase agreements with three U.S. suppliers for high-speed diesel generators totaling 90MW. The Volta River Authority, Ghana's power-generating agency, has procured a 126MW plant soon to go on line. Various power generation projects under review include a 300MW thermal power plant in Tema and expansion of an existing plant in Takoradi to 110MW. In addition, a Chinese-funded dam project aims to add an additional 400MW generating capacity within the next five years.

Ghana's health care delivery system, among the best in the region, is constantly challenged to meet the needs of its growing population. Lacking the relevant manufacturing base, the country relies almost exclusively on imported medical devices. Equipment for diagnostics, intensive care, and surgery; ambulances and related equipment; and disposable supplies are in high demand.

The United States is the major supplier to Ghana's $28 million import market for computers and accessories, providing desktop personal computers, floppy diskettes, printers, and monitors. A growing number of firms serve the Ghanaian hardware and software markets. Local assembly is growing, while improved local servicing capacity, coupled with growth of offshoot activities such as shareware, software design, computer graphics, and systems consulting, drives demand for information technology. The government has removed the Value Added Tax on imported computers supplied to recognized educational institutions.

In 2007, Ghana hosted the U.S.-Sub-Saharan Africa trade and Economic Cooperation Forum, which focused on optimizing the benefits of the African Growth and Opportunity act (AGOA). Growing recognition of Ghana as an advantageous venue for diplomatic, educational, and commercial activities suggests potential for opportunities in safety and security sectors.

The government's liberalization of its telecommunications sector spurred significant annual growth in recent years. There are 2 land providers, 4 cellular companies, 10 paging service providers, 128 Internet service providers, 106 VSAT data operators, and 61 public/corporate data operators. FM stations number 128, and TV stations 24. Imports of telecommunications products are mainly for landline projects, private mobile telephone services, and broadband data transfer services. There has been a tremendous increase in the subscriber base of mobile operators as they attempted to out compete each other.

The rapid increase in the market size of the telecommunications sector has resulted in a high volume of imports of telecommunications equipment, including switching and transmission equipment, telephone, and fax machines, radio and television equipment, and cellular radiotelephones. One mobile provider, Kasapa, upgraded from analogue equipment to digital CDMA, and Ghana Telecom installed a pre-paid platform for its landline service. Areeba, the leading mobile phone service provider, extended its service to rural areas. Countrywide, as landline density remains very low (2.9 lines per hundred people) cellular companies with prepaid cards have had made major gains in market share. While mobile penetration into rural areas has recently increased tremendously, the areas still remain largely under served by both landline and cellular companies. The national network operators have programs underway to meet the performance targets under their licenses. Ghana Telecom has been expanding to meet a 400,000-telephone line requirement.

Nigeria

Nigeria, the most populous country in Sub-Saharan Africa at over 120 million people, continues to push forward economic reforms, while its $121 billion GDP is growing at around 10 percent. Pending development of its agricultural and non-oil industrial capacities, the country continues to depend heavily on imports. Last year Nigeria received a "BB-" rating from two international credit rating organizations, Fitch-Ratings and Standard & Poor, which acknowledged the stability of the Nigerian currency and the government's commitment to economic and social reforms. Nigeria holds tremendous potential for U.S. businesses willing to conduct due diligence and draw on Commercial Service assistance in screening prospective partners and customers.

One of the world's top ten oil producers, Nigeria holds oil reserves of about 36.24 billion barrels and gas reserves estimated at 187 trillion standard cubic feet. The life expectancy of Nigeria's crude oil reserve is 35 years, and that of its gas reserves is more than 109 years. Natural gas, increasingly seen

as an enormous income-generating resource, is now being captured for processing and sale both regionally and abroad. Nigeria's oil and gas sector accounts for over 90 percent of the country's foreign exchange earnings, and U.S. equipment and technology account for at least 80 percent of imports in this sector. With increased movement of oil and gas activity into Nigeria's deep offshore areas, American companies are expected to maintain a dominant market share of imports of high-end oilfield machinery.

Like Ghana, Nigeria imports most of its medical equipment. Recent health care reforms have included introducing national health insurance, transforming eight teaching hospitals into centers of excellence for tertiary health care, and rehabilitating nearly 300 primary health centers. Plans to establish more HIV/AIDS testing and treatment centers, and to combat AIDS generally, will cost the Nigerian government an estimated $63 million. Nigeria's health care sector holds significant opportunities for professional training, given the dearth of expertise in many specialized fields and a near absence of cutting-edge technology.

Factors spurring interest in high technology include the government's plans for an information and communications technology park and the emerging success of the "Computers for All Nigerians Initiative (CANi)" program, for which Microsoft and Intel are supplying operating systems and processors respectively.

Nigeria's safety and security market offers potential in a wide range of sectors, with rising demand for products and services to protect its burgeoning financial and information technology sectors. Best prospects also include technologies for airport security; personal, residential, and industrial protection; and crime fighting.

Nigeria is one of the world's most profitable telecommunications markets, with monthly revenue from services averaging $615.4 million. Leading cellular mobile operators such as MTN Nigeria are said to generate as much as $138.5 million every month. Nigeria's emergence into the consumer market era is driving demand for improved telecommunications and information technology. The country's commercial centers are awash with ATMs as banks compete for customers, offering mobile banking and service delivery around the clock.

South Africa

South Africa's market size of 47 million people, well-developed infrastructure, productive economy, and pro-business environment make it a logical choice for many U.S. companies seeking to conduct business on the African continent. The country's GDP reached $587.5 billion last year, marking 5-percent growth. South Africa boasts a sophisticated financial sector with a stock exchange (Johannesburg Stock Exchange) that ranks among the top exchanges in the world. Thanks to the commodity-driven export boom and surging retail demand, a medium-term growth rate of 6 percent is attainable. Preparations for the 2010 FIFA World Cup, scheduled to take place in South Africa, are expected to increase demand for U.S. goods and services in a country that already ranks as one of the most popular destinations for U.S. exports on the African continent.

South Africa's rapid economic growth in recent years has resulted in demand for electricity rising faster than anticipated, creating the need for new power stations, pebble bed modular reactors, transmission and distribution equipment, systems control equipment, network upgrades, and refurbishment of turbines. Eskom, the state power company, estimates that up to $16 billion will be spent on new transmission and power generation infrastructure in the next five years. Eskom is investigating technological advances in the use of coal, its current fuel supply, and the use of alternative fuel sources (particularly gas and hydropower).

Although most of South Africa's medical equipment imports come from Europe, the United States leads in the supply of sophisticated high-tech medical equipment. U.S. companies are encouraged to consider a presence in the South African medical market. A number of large U.S. firms are already represented there, a situation that holds joint-venture potential for smaller and medium-sized U.S. companies offering specialized technologies that can be incorporated into existing operations. Rising crime rates in South Africa have created a market of opportunity for providers of safety and security equipment and services. Upgrading security has been identified as a top priority by businesses and homeowners, who are increasingly looking for external expertise and new digital technologies. Surveillance equipment, particularly CCTV, is the largest sector of South Africa's security market, which is valued between $85 million and $165 million.

South Africa's $12 billion telecommunications equipment market relies heavily on imports, more than 50 percent of which come from the United States. As South Africa prepares to host the 2010 FIFA World Cup, industry sources predict a growth rate in telecommunication equipment of over 20 percent, beginning in 2007, particularly in the area of Second Generation Network Solutions products and equipment.

Mission Goal

The goal of the Sub-Saharan Trade Mission is to provide U.S. participants with first-hand market information, access to government decision makers, and one-on-one meetings with business contacts, including potential agents, distributors and partners, so they can position themselves to enter or expand their presence in the African market.

Mission Scenario

The Sub-Saharan Trade Mission will include three stops: Accra, Ghana; Lagos, Nigeria; and Johannesburg, South Africa. In each city, participants will meet with new business contacts. Additional business meetings can be arranged in Johannesburg or Cape Town through the Gold Key Service for an additional cost of $400 per city. This fee is exclusive of interpreter and transportation costs, estimated at $200.

Proposed Timetable

Accra

Monday, March 3, 2008: Market briefing. Meetings with government and industry officials, Reception.

Tuesday, March 4, 2008: One-on-one business appointments.

Wednesday, March 5, 2008: Morning departure to Lagos.

Lagos

Wednesday, March 5, 2008: Reception, Market briefing.

Thursday, March 6, 2008: Meetings with government and industry officials, One-on-one business appointments.

Friday, March 7, 2008: One-on-one business appointments.

Weekend departure to Johannesburg.

Johannesburg

Sunday, March 10, 2008: Reception at the Ronald H. Brown Commercial Center.

Monday, March 10, 2008: Market briefing, Meetings with government and industry officials, One-on-one business appointments.

Tuesday, March 11, 2008: One-on-one business appointments.

Mission concludes Tuesday evening. Participants may return to United States or remain in South Africa for additional appointments arranged separately under the Gold Key Service.

Criteria for Participants' Selection

- Relevance of a company's business line to mission goals.
- Timeliness of the company's signed application and participation agreement (including the participation fees).
- Minimum of 8 and a maximum of 15 participating companies on the mission.
- Potential for business in Sub-Saharan Africa for the company.
- Provision of adequate information on the company's products and/or services, and the company's primary market objectives, in order to facilitate appropriate matching with potential business partners.
- Certification that the company meets Departmental guidelines for participation. Generally, a company's products or services should be either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

The participation fee is $3,950 per firm, which includes one representative. The fee for each additional firm representative is $750. Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar—*http://www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin October 1, 2007, and conclude December 10, 2007. Applications will be vetted on a rolling basis. Applications received after December 10, 2007, will be considered only if space and scheduling constraints permit. Any partisan political activities (including political contributions) of an applicant are entirely irrelevant to the selection process.

Contacts

Jessica M. Arnold, International Trade Specialist, Global Trade Programs, U.S. Commercial Service, Washington, DC 20230, Tel: 202–482–2026/ *jessica.arnold@mail.doc.gov.*

Diane Jones, Senior Commercial Officer, U.S. Commercial Services, Accra, Ghana, Tel: 221–823–4296/Fax: 221–822–1371, *Diane.Jones@mail.doc.gov.*

Larry Farris, Senior Commercial Officer, U.S. Commercial Service, Lagos, Nigeria, Tel.: 234–1–261–0050/Fax: 234–1–261–9856, *Larry.Farris@mail.doc.gov.*

Craig Allen, Senior Commercial Officer, U.S. Commercial Service, Johannesburg, South Africa, Tel.: 27–11–778–4800 Fax: 27–11–268–6100, *Craig.Allen@mail.doc.gov.*

Nancy Hesser,

Manager, Commercial Service Trade Missions Program.

[FR Doc. 07–4835 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC79

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Notice that Vendor Will Provide Year 2008 Cage Tags

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of vendor to provide year 2008 cage tags.

SUMMARY: NMFS informs surfclam and ocean quahog allocation owners that they will be required to purchase their year 2008 cage tags from the National Band and Tag Company. The intent of this notice is to comply with regulations for the Atlantic surfclam and ocean quahog fisheries and to promote efficient distribution of cage tags.

ADDRESSES: Written inquiries may be sent to Timothy Cardiasmenos, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Timothy Cardiasmenos, Fishery Management Specialist, (978) 281–9204; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The Federal Atlantic surfclam and ocean quahog fisheries regulations at 50 CFR 648.75(b) authorize the Regional Administrator of the Northeast Region, NMFS, to specify in the **Federal Register** a vendor from whom cage tags, required under the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP), shall be purchased. Notice is hereby given that National Band and Tag Company of Newport, Kentucky, is the authorized vendor of cage tags required for the year 2008 Federal surfclam and ocean quahog fisheries. Detailed instructions for purchasing these cage tags will be provided in a letter to allocation owners in these fisheries from NMFS within the next several weeks.

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

Dated: September 26, 2007.

James P. Burgess,

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

[FR Doc. E7–19353 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XC97

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Habitat Committee (HC) will hold a meeting that is open to the public.

DATES: The HC meeting will be held Monday, October 15, 2007, from 10:30 a.m. until business for the day is completed.

ADDRESSES: The HC meeting will be held at the Pacific Fishery Management Council, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: (503) 820–2280.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Gilden, Habitat Coordinator; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the HC meeting is to discuss habitat-related issues relevant to upcoming Pacific Fishery Management Council meetings.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: September 26, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–19319 Filed 9–28–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE, Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year (FY) 2008 Mental Health Rate Updates

AGENCY: Department of Defense.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of institution-specific per diem rates for high-volume providers and regional per diem rates for low volume providers; the updated cap per diem for high-volume providers; the beneficiary per diem cost share amount for low-volume providers for FY 2008 under the TRICARE Mental Health Per Diem Payment System; and the updated per diem rates for both full-day and half-day TRICARE Partial Hospitalization Programs for FY 2008.

DATES: *Effective Date:* The FY 2008 rates contained in this notice are effective for services occurring on or after October 1.

FOR FURTHER INFORMATION CONTACT: Christine Covie, Office of Medical Benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676–3841.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on September 6, 1988, (53 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. The final rule published in the **Federal Register** on July 1, 1993, (58 FR 35–400) set forth maximum per diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in these final rules were provisions for updating reimbursement rates for each federal FY. As stated in the final rules, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. For fiscal year 2008, Medicare has recommended a rate of increase of 3.4 percent for hospitals and units excluded from the prospective payment system. TRICARE will adopt this update factor for FY 2008 as the final update factor. Hospitals and units with hospital specific rates (hospitals and units with high TRICARE volume) and regional specific rates for psychiatric hospitals and units with low TRICARE volume will have their TRICARE rates for FY 2007 updated by 3.4 percent for FY 2008. Partial hospitalization rates for full-day and half-day programs will also be updated by 3.4 percent for FY 2008. The cap amount for high-volume hospitals and units will also be updated by the 3.4 percent for FY 2008. The beneficiary cost share for low volume hospitals and units will also be updated by the 3.4 percent for FY 2008.

Consistent with Medicare, the wage portion of the regional rate subject to the area wage adjustment is 75.788 percent for FY 2008. The following reflect an update of 3.4 percent for FY 2008.

Regional Specific Rates for Psychiatric Hospitals and Units With Low TRICARE Volume

UNITED STATES CENSUS REGION

	Rate @
Northeast:	
New England	$707
Mid-Atlantic	681
Midwest:	
East North Central	588
West North Central	555
South:	
South Atlantic	701
East South Central	750
West South Central	639
West:	
Mountain	638
Pacific	754
Puerto Rico	481

@ Wage portion of the rate, subject to the area wage adjustment—75.788.

Beneficiary cost share: Beneficiary cost-share (other than dependents of Active Duty members) for care paid on the basis of a regional per diem rate is the lower of $187 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 2007.

Cap Amount: Updated cap amount for hospitals and units with high TRICARE volume is $889 per day for FY 2008.

The following reflect an update of 3.4 percent for FY 2008.

PARTIAL HOSPITALIZATION RATES FOR FULL-DAY AND HALF-DAY PROGRAMS

[Fiscal year 2007]

United States Census Region	Full-day rate (6 hours or more)	Half-day rate (3–5 hours)
Northeast:		
New England (Maine, N.H., Vt., Mass., R.I., Conn.)	$284	$214
Mid-Atlantic:		
(N.Y., N.J., Penn.)	308	232
Midwest:		
East North Central (Ohio, Ind., Ill., Mich., Wis.)	271	203
West North Central:		
(Minn., Iowa, Mo., N.D., S.D., Neb., Kan.)	271	203
South:		
South Atlantic (Del., Md., D.C., Va., W.Va., N.C., S.C., Ga., Fla.)	292	219
East South Central:		
(Ky., Tenn., Aa., Miss.)	315	237
West South Central:		
(Ark., La., Texas, Okla.)	315	237
West:		
Mountain (Mon., Idaho, Wyo., Col., N.M., Ariz., Utah, Nev.)	318	240
Pacific (Wash., Ore., Calif., Alaska, Hawaii)	312	234
Puerto Rico	203	153

The above rates are effective for services rendered on or after October 1, 2007.

Dated: September 25, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4829 Filed 9–28–7; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DoD–2007–OS–0109]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend two systems of records.

SUMMARY: The Office of the Secretary of Defense is amending two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 31, 2007 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Finnegan at (703) 696–3081.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 25, 2007.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base (January 8, 2007, 72 FR 737).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with "DMDC 01".

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry "Guard and Reserve civilian employment information."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the individual's full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the individual's full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

* * * * *

DMDC 01

SYSTEM NAME:

Defense Manpower Data Center Data Base

SYSTEM LOCATION:

Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army, Navy, Air Force, and Marine Corps officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired Army, Navy, Air Force, and Marine Corps officer and enlisted personnel; active and retired Coast Guard personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; active and retired members of the commissioned corps of the Public Health Service; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

Current and former DOD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Participants in the Department of Health and Human Services National Longitudinal Survey.

Survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; survivors of retired Coast Guard personnel; and survivors of retired officers of the National Oceanic and Atmospheric Administration and the Public Health Service who are eligible for or are currently receiving Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active and retired members of the Uniformed Services, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DOD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal civilian retirees.

All non appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

Individuals who are authorized Web access to DMDC computer systems and databases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number (SSN), citizenship data, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; performance ratings of DOD civilian employees and military members; reasons given for leaving military service or DOD civilian service; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, assignment/deployment, length of service, military occupation, aptitude scores, post service education, training, and employment information for veterans; participation in various in-service education and training programs; date of award of certification of military experience and training; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, information about the nature of the abuse and services provided, and Guard and Reserve civilian employment information.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Index fingerprints of Military Entrance Processing Command (MEPCOM) applicants.

Privacy Act audit logs.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number (SSN), date of birth, sex, work schedule (full time, part time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from Office of Personnel Management (OPM) OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non appropriated fund employment/personnel records consist of Social Security Number (SSN), name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

Names of individuals, as well as DMDC assigned identification numbers, and other user-identifying data, such as organization, Social Security Number (SSN), e-mail address, phone number, of those having web access to DMDC computer systems and databases, to include dates and times of access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1562, Database on Domestic Violence Incidents; Pub. L. 106–265, Federal Long-Term Care Insurance; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DOD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified.

To collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DOD Components in the preparation of studies and policy as related to the health and well-being of current and past military and DOD affiliated personnel; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals.

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DOD wide drug testing demographic data will be approved by the DOD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

DMDC web usage data will be used to validate continued need for user access to DMDC computer systems and databases, to address problems associated with web access, and to ensure that access is only for official purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

f. To provide identifying military personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DOD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(2) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

c. Matching for administrative purposes to include updated employer addresses of Federal civil service employees who are reservists and demographic data on civil service employees who are reservists.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DOD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to "life stream" earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DOD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter intelligence functions and a determination is made that disclosure could endanger the safety of the individual

or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns, or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members.

e. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of determining continued eligibility and help eliminate fraud and abuse in benefit programs by identifying individuals who are receiving Federal compensation or pension payments and also are receiving payments pursuant to Federal benefit programs being administered by the States.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of (1) conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings, and (2) obtaining current earnings data on individuals who have voluntarily left military service or DOD civil employment so that analytical personnel studies regarding pay, retention and benefits may be conducted.

Note 3: Earnings data obtained from the SSA and used by DOD does not contain any information that identifies the individual about whom the earnings data pertains.

b. To the Bureau of Supplemental Security Income for the purpose of verifying information provided to the SSA by applicants and recipients/beneficiaries, who are retired members of the Uniformed Services or their survivors, for Supplemental Security Income (SSI) or Special Veterans' Benefits (SVB). By law (42 U.S.C. 1006 and 1383), the SSA is required to verify eligibility factors and other relevant information provided by the SSI or SVB applicant from independent or collateral sources and obtain additional information as necessary before making SSI or SVB determinations of eligibility, payment amounts, or adjustments thereto.

c. To the Client Identification Branch for the purpose of validating the assigned Social Security Number for individuals in DOD personnel and pay files, using the SSA Enumeration Verification System (EVS).

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DOD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

8. To Federal and Quasi Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

9. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

10. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

11. To Federal and Quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

12. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 4: Data obtained from such organizations and used by DOD does not contain any information that identifies the individual about whom the data pertains.

13. To Federal and State agencies for purposes of obtaining socioeconomic information on Armed Forces personnel so that analytical studies can be conducted with a view to assessing the present needs and future requirements of such personnel.

14. To Federal and state agencies for purposes of validating demographic data (e.g., Social Security Number, citizenship status, date and place of birth, etc.) for individuals in DOD personnel and pay files so that accurate information is available in support of DOD requirements.

15. To the Bureau of Citizenship and Immigration Services, Department of Homeland Security, for purposes of facilitating the verification of individuals who may be eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

16. To Federal and State agencies, as well as their contractors and grantees, for purposes of providing military wage, training, and educational information so that Federal-reporting requirements, as mandated by statute, such as the Workforce Investment Act (29 U.S.C. 2801, et seq.) and the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2301, et seq.) can be satisfied.

The DOD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

Note 5: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DOD 'Blanket Routine Uses' do not apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number (SSN), occupation, or any other data element contained in system.

SAFEGUARDS:

Access to personal information is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of Common Access Cards (CAC). Physical entry is restricted by the use of locks, guards, and administrative procedures. All individuals granted access to this system of records are to have taken Information Assurance and Privacy Act training; all have been through the vetting process and have ADP ratings.

RETENTION AND DISPOSAL:

The records are used to provide a centralized system within the Department of Defense to assess manpower trends, support personnel functions, perform longitudinal statistical analyses, and conduct scientific studies or medical follow-up programs and other related studies/analyses. Records are retained as follows:

(1) Input/source records are deleted or destroyed after data have been entered into the master file or when no longer needed for operational purposes, whichever is later. Exception: Apply NARA-approved disposition instructions to the data files residing in other DMDC data bases.

(2) The Master File is retained permanently. At the end of the fiscal year, a snapshot is taken and transferred to the National Archives in accordance with 36 CFR part 1228.270 and 36 CFR part 1234.

(3) Outputs records (electronic or paper summary reports) are deleted or destroyed when no longer needed for operational purposes. Note: This disposition instruction applies only to record keeping copies of the reports retained by DMDC. The DOD office requiring creation of the report should maintain its record keeping copy in accordance with NARA approved disposition instructions for such reports.

(4) System documentation (codebooks, record layouts, and other system documentation) are retained permanently and transferred to the National Archives along with the master file in accordance with 36 CFR part 1228.270 and 36 CFR part 1234.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DOD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

Record sources are individuals via survey questionnaires, the military services, the Department of Veteran Affairs, the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, the Public Health Service, the Office of Personnel Management, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Executive Office of the President, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records (January 8, 2007, 72 FR 730).

CHANGES:

* * * * *

SYSTEM IDENTIFIER:

Delete entry and replace with "DMDC 02".

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information,

Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

* * * * *

DMDC 02

SYSTEM NAME:

Defense Eligibility Records.

SYSTEM LOCATION:

EDS—Service Management Center, 1075 West Entrance Drive, Auburn Hills, MI 48326–2723.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their family members; retired Armed Forces personnel and their family members; 100 percent disabled veterans and their dependents or survivors; surviving family members of deceased active duty or retired personnel; active duty and retired Coast Guard personnel and their family members; active duty and retired Public Health Service personnel (Commissioned Corps) and their family members; active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their family members; and State Department employees employed in a foreign country and their family members· civilian employees of the Department of Defense; contractors; and any other individuals entitled to care under the health care program or to other DoD benefits and privileges; providers and potential providers of health care; and any individual who submits a health care claim; all appropriated, non-appropriated, and foreign national DoD employees; all Federal (non-postal) civilian employees and all Federal civilian retirees; Congressional Medal of Honor awardees; dependants of active and retired members of the Uniformed Services; selective service registrants; DoD affiliated personnel (e.g. contractors); emergency contact data for DoD affiliated personnel (e.g. contractors); foreign military and families who used DoD medical facilities; former enlisted and officer personnel of the military services who separated from active duty since 1971; DoD civilian retirees who are receiving ID cards as authorized by OUSD(P&R) memo, subject: Issuance of Identification Cards to Retired Department of Defense Civilian Employees (December 30, 2005); general population treated for medical emergency in a DoD medical facility; individuals receiving security background investigations as identified in the Defense Central Index of Investigations; individuals who participated in educational programs sponsored by U.S. Armed Forces Institute and participants of Armed Forces Aptitude testing program at the High School level since September 1969; individuals who were or may have been subjects of tests involving chemical or biological human subject testing, and individuals who have inquired or provided information to the DoD concerning such testing; other Federal agency employees and applicants who have registered to take the Defense Language Proficiency Tests (DLPT) 5; participants in the Department of Health and Human Services National Longitudinal Survey; and veterans who have used GI Bill education/training employment services office since January 1, 1971.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of Service of sponsor, dates of beginning and ending eligibility, number of family members of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of sponsor, rank/pay grade of sponsor, disability documentation, Medicare eligibility and enrollment data, index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays.

Catastrophic Cap and Deductible (CCD) transactions, including monetary amounts; CHAMPUS/TRICARE claim records containing enrollee, participant and health care facility, provider data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care; citizenship data/country of birth; civil service employee employment information (agency and bureau, pay plan and grade, nature of action code and nature of action effective date, occupation series, dates of promotion and expected return from overseas, service computation date); claims data; compensation data; contractor fee payment data; date of separation of former enlisted and officer personnel; demographic data (kept on others beyond beneficiaries), date of birth, home of record state, sex, race, education level; Department of Veterans Affairs disability payment records; digital signatures where appropriate to assert validity of data; e-mail (home/work); emergency contact information; immunization data; Information Assurance (IA) Work Force information; language data; military personnel information (rank, assignment/deployment, length of service, military occupation, education, and benefit usage); pharmacy benefits; reason leaving military service or DoD civilian service; Reserve member's civilian occupation and employment information; education benefit eligibility and usage; special military pay information; SGLI/FGLI; stored documents for proofing identity and association; workforces information (e.g. Acquisition, First Responders); Privacy Act audit logs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23, Internal Security; DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); Pub. L. 106–265, Federal Long-Term Care Insurance; and 10 U.S.C. 2358, Research and Development Projects; 42 U.S.C. Chapter 20, Subchapter I–G, Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office, Sec. 1973ff, Federal responsibilities and DoD Directive 1000.4, Federal Voting Assistance Program (FVAP); Homeland Security Presidential Directive 12, Policy for a Common Identification Standard for Federal Employees and Contractors; 38 CFR part 9.20, Traumatic injury protection, Servicemembers' Group Life Insurance and Veterans' Group Life Insurance; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to provide a database for determining eligibility to DoD entitlements and

privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs.

To authenticate and identify DoD affiliated personnel (e.g., contractors); to assess manpower, support personnel and readiness functions; to perform statistical analyses; identify current DoD civilian and military personnel for purposes of detecting fraud and abuse of benefit programs; to register current DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified; to ensure benefit eligibility is retained after separation from the military; information will be used by agency officials and employees, or authorized contractors, and other DoD Components for personnel and manpower studies; and to assist in recruiting prior-service personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DoD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment-related group health insurance, to coordinate insurance benefits provided by DoD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DoD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DoD with those provided by Medicare.

2. To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

3. To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

4. To provide dental care providers assurance of treatment eligibility.

5. To Federal agencies and/or their contractors, in response to their requests, for purposes of authenticating the identity of individuals who, incident to the conduct of official DoD business, present the Common Access Card or similar identification as proof of identity to gain physical or logical access to government and contractor facilities, locations, networks, or systems.

6. To State and local child support enforcement agencies for purposes of providing information, consistent with the requirements of 29 U.S.C. 1169(a), 42 U.S.C. 666(a)(19), and E.O. 12953 and in response to a National Medical Support Notice (NMSN) (or equivalent notice if based upon the statutory authority for the NMSN), regarding the military status of identified individuals and whether, and for what period of time, the children of such individuals are or were eligible for DoD health care coverage.

Note: Information requested by the States is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

7. To the Department of Health and Human Services (HHS):

a. for purposes of providing information, consistent with the requirements of 42 U.S.C. 653 and in response to an HHS request, regarding the military status of identified individuals and whether, and for what period of time, the children of such individuals are or were eligible for DoD healthcare coverage.

Note: Information requested by HHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

b. for purposes of providing information so that specified Medicare determinations, specifically late enrollment and waiver of penalty, can be made for eligible (1) DoD military retirees and (2) spouses (or former spouses) and/or dependents of either military retirees or active duty military personnel, pursuant to section 625 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2002 (as codified at 42 U.S.C. 1395p and 1395r).

c. To the Office of Child Support Enforcement, Federal Parent Locator Service, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; the relationship to a child receiving benefits provided by a third party and the name and SSN of those third party providers who have a legal responsibility. Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

8. To the American Red Cross for purposes of providing emergency notification and assistance to members of the Armed Forces, retirees, family members or survivors.

9. To the Department of Veterans Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans' benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968) and for DVA to administer the Traumatic Servicemember's Group Life Insurance (TSGLI) (Traumatic Injury Protection Rider to Servicemember's Group Life Insurance (TSGLI), 38 CFR part 9.20).

c. To register eligible veterans and their dependents for DVA programs.

d. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension Program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

(1) Providing full identification of active duty military personnel, including full time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for Gl Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty), the REAP educational benefit (Title 10 U.S.C, Chapter 1607), and the National Call to Service enlistment educational benefit (Title 10, Chapter 510). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

f. To provide identifying military personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

10. To DoD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

11. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

12. To Defense contractors to monitor the employment of former DoD employees and military members subject to the provisions of 41 U.S C. 423.

13. To Federal and Quasi Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

14. To Federal and Quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipients' understanding of, and willingness to abide by these provisions.

15. To Federal and State agencies for purposes of obtaining socioeconomic information on Armed Forces personnel so that analytical studies can be conducted with a view to assessing the present needs and future requirements of such personnel.

16. To Federal and state agencies to validate demographic data (e.g., Social Security Number, citizenship status, date and place of birth, etc.) for individuals in DoD personnel and pay files so that accurate information is available in support of DoD requirements.

17. To the Bureau of Citizenship and Immigration Services, Department of Homeland Security, for purposes of facilitating the verification of individuals who may be eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

18. To the Federal voting program to provide unit and e-mail addresses for the purpose of notifying the military members where to obtain absentee ballots.

19. To the Department of Homeland Security for the conduct of studies related to the health and well-being of Coast Guard members and to authenticate and identify Coast Guard personnel.

20. To Coast Guard recruiters in the performance of their assigned duties.

The DoD "Blanket Routine Uses" published at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks, and are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm which uses name, Social Security Number, date of birth, rank, and duty location as possible inputs. Retrievals are made on summary basis by geographic characteristics and location and demographic characteristics.

Information about individuals will not be distinguishable in summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords, which are changed periodically. All individuals granted accesses to this system of records are to have received Information Assurance and Privacy Act training.

RETENTION AND DISPOSAL:

Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number(SSN), date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name, Social Security Number (SSN), date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

RECORD SOURCE CATEGORIES:

Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration, Department of Veterans Affairs, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–19321 Filed 9–28–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 31, 2007.

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 25, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: National Evaluation of the Comprehensive Technical Assistance Centers.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,124.

Burden Hours: 1,703.

Abstract: The purpose of this study is to evaluate the Comprehensive Technical Assistance Centers created to assist state education agencies with the implementation of the requirements of No Child Left Behind legislation. Four key methods will be used in this study: (1) Site visits conducted to each Center to learn about the Center's relationships with its clients and the types of products and services that are delivered; (2) expert panel review of a sample of projects undertaken by each Center to assess the quality of the technical assistance provided; (3) a survey of Center clients to rate the relevance, usefulness and other aspects of the services they have received; and (4) a survey of senior SEA officials who are responsible for negotiating with the Centers to ensure that the nature of technical assistance provided corresponds to state priorities.

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 3414. 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., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. 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. E7–19337 Filed 9–28–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 21, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–200–000; ER07–254–000; ER07–460–000; ER05–534–000; ER05–365–000; ER05–1262–000; ER06–1093–000; ER05–332–000; ER07–287–000; ER07–242–000; ER04–94–000; ER05–1146–000; ER05–481–000; ER07–240–000.

Applicants: Big Horn Wind Project, LLC; Casselman Windpower, LLC; Dillon Wind, LLC; Eastern Desert Power, LLC, Elk River Wind, LLC, Flat Rock Windpower, LLC; Flat Rock Windpower II, LLC, Klondike Wind Power II, LLC; Klondike Wind Power III, LLC; MinnDakota Wind, LLC, Mountain View Power Partners III, LLC; Shiloh I Wind Project, LLC; Trimont Wind I, LLC; Twin Buttes Wind, LLC.

Description: Big Horn Wind Project, LLC, *et al.* notifies FERC that they do not currently engage in reporting of transactions to publishers of electricity or natural gas price indices.

Filed Date: 09/18/2007.

Accession Number: 20070919–0102.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ER07–539–002; ER07–540–002.

Applicants: Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corp dba National Grid submits a second amendment to its 2/14/07 filings.

Filed Date: 09/19/2007.

Accession Number: 20070920–0114.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 10, 2007.

Docket Numbers: ER07–1050–001.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits their response to questions posed in the 8/17/07 Order concerning the capacity resource delisting process, and submits revisions to the PJM OATT.

Filed Date: 09/17/2007.

Accession Number: 20070920–0046.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ER07–1172–001.

Applicants: Idaho Power Company.

Description: Idaho Power Company requests that the Commission accept their proposed use of the ICE Mid-C index in Schedules 4 and 10 of its Order 890 OATT filed on 7/13/07 in response to the 8/30/07 deficiency letter.

Filed Date: 09/17/2007.

Accession Number: 20070920–0045.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ER07–1374–000.

Applicants: South Carolina Electric & Gas Company.

Description: South Carolina Electric & Gas Co submits an Industrial Tap Agreement with the City of Orangeburg, SC.

Filed Date: 09/14/2007.

Accession Number: 20070918–0137.

Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1385–000.

Applicants: Entergy Services, Inc.

Description: Entergy Operations, Inc., *et al.* submit their First Revised Rate Schedule 435, etc.

Filed Date: 09/17/2007.

Accession Number: 20070920–0049.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ER07–1386–000.

Applicants: Tatanka Wind Power, LLC

Description: Application of Tatanka Wind Power, LLC for order accepting market-based rate tariff, granting authorizations and blanket authority, and waiving certain requirements.

Filed Date: 09/17/2007.

Accession Number: 20070920–0048.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ER07–1387–000.

Applicants: Maine Electric Power Company, Inc.

Description: Maine Electric Power Co, Inc and ISO New England, Inc. submits a revised Attachment H of the OATT.

Filed Date: 09/17/2007.

Accession Number. 20070920–0047.

Comment Date: 5 p.m. Eastern Time on Friday, September 28, 2007.

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.,

Acting Deputy Director.

[FR Doc. E7–19283 Filed 9–28–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–20–000]

Fuel Retention Practices of Natural Gas Companies

September 20, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy Regulatory Commission is seeking comments on its policy regarding the in-kind recovery of fuel and lost and unaccounted-for gas by natural gas pipeline companies. The Commission is inviting interested persons to submit comments, and other information on the matters, issues and specific questions identified in this notice.

DATES: Comments are due November 30, 2007.

ADDRESSES: You may submit comments, identified by Docket No. RM07–20–000. by one of the following methods:

- *Agency Web Site: http://www.ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail:* Commenters unable to file comments electronically must mail an original and 14 copies of their comments to: Federal Energy NE., Washington, DC, 20426. Please refer to the Comment Procedure Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT: Ingrid M. Olson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8406.

SUPPLEMENTARY INFORMATION:

Notice of Inquiry

September 20, 2007.

1. In this Notice of Inquiry, the Commission is seeking comments on its policy regarding the in-kind recovery of fuel and lost and unaccounted-for gas by natural gas pipeline companies. Current policy, described below, gives pipelines two options for recovering these costs, and pipelines follow a variety of practices regarding fuel and lost and unaccounted-for gas. The Commission is seeking comments on whether it should change its current policy and prescribe a uniform method for all pipelines to use in recovering these costs.[1]

I. Current Commission Policy on Fuel Retention

2. Interstate natural gas pipelines frequently require that customers contribute a small percentage of the volumes of natural gas tendered for transportation service to provide fuel for compressors and to make up for lost and unaccounted-for gas.[2] Each pipeline states the percentage it retains in its open access tariff. Currently effective tariff fuel retention rates range from fractions of a percent to as high as 13 percent.[3]

3. The Commission established its current policy concerning the in-kind recovery of fuel and unaccounted-for gas in ANR Pipeline Company (ANR).[4] In its January 2005 order in the ANR case,[5] the Commission stated that pipelines have two options to recover these costs. The first option is to establish a fixed fuel retention percentage in a general section 4 rate case, and leave that percentage unchanged until the pipeline files its next general section 4 rate case. The second option allows the pipeline to include in its tariff a mechanism permitting periodic changes in its fuel retention percentage outside of a general section 4 rate case, as allowed by section 154.403 of the Commission's regulations.[6] ANR held that, if a pipeline chooses the second option, it must include in its tariff a mechanism to true-up any over- and under-recoveries of fuel, absent agreement otherwise by all interested parties.

4. In ANR, the Commission explained that its general ratemaking policy, established in Order No. 436, is that pipelines must design their rates based on estimated units of service without any type of true-up mechanism.[7] This means that the pipeline is at risk for under-recovery of its costs between rate cases and may retain any over-recovery. This gives pipelines an incentive both to minimize their costs and maximize the service they provide. A cost tracker undercuts these incentives by guaranteeing the pipeline revenues sufficient to recover its costs regardless of the level of costs or services provided.

5. However, as the Commission explained in ANR, it had permitted an exception to this policy for a few cost items that are subject to significant changes from year to year and thus are difficult to predict. Among these cost items is fuel. The Commission explained that section 154.403 of its regulations permits a pipeline to adjust its fuel retention percentages in periodic limited section 4 rate filings pursuant to a methodology set forth in the pipeline's tariff. The Commission stated that section 154.403 does not expressly require that pipelines include true-up mechanisms as part of the tariff provision permitting periodic adjustments to their fuel retention percentages. Instead, the Commission stated, it had addressed this issue on a case-by-case basis and required a true-up when the facts of a particular case so warranted

6. In ANR, the Commission changed this approach and held that, if a pipeline wishes to take full advantage of the incentives underlying our general ratemaking policy with respect to in-kind fuel recovery, then it can choose the first option which requires establishing a fixed fuel retention percentage. However, if the pipeline chooses the second option and tracks its fuel costs, then there must be an assurance that the fuel costs are tracked accurately so that the pipeline does not over-recover its fuel costs under any

[1] In this proceeding, the Commission is seeking comments on several specific proposals for rate recovery of fuel and lost and unaccounted-for gas, as well as answers to specific questions. It also should be noted that the Commission has initiated a separate proceeding in Docket No. RM07–9–000 inquiring about the need for changes or revisions in the Commission's reporting requirements for its financial forms including the Form Nos. 2 and 2–A, Annual Reports of Major and Nonmajor Natural Gas Companies. *Assessment of Information Requirements for FERC Financial Forms*, Notice of Inquiry, FERC Stats & Regs. ¶ 35,554 (February 15, 2007). The Commission received a number of comments and suggestions in that proceeding regarding the adequacy of information reported in the Form No. 2 concerning gas retained, used for compression, and lost and unaccounted-for. Accordingly, the reporting requirements related to gas retained, used for compression, and lost and unaccounted-for will be addressed in the Notice of Proposed Rulemaking which the Commission is concurrently issuing in Docket No. RM07–9–000, 120 FERC ¶ 61,256.

[2] Some pipelines do not require shippers to contribute in-kind a portion of the gas tendered to the pipeline for transportation for the pipeline's use.

[3] *See, e.g.*, MIGC, Inc., FERC Gas Tariff, First Revised Volume No. 1, Eleventh Revised Sheet No. 6 (fuel retention percentages up to 13 percent); Gas Transmission Northwest, FERC Gas Tariff, Third Revised Volume No. 1–A, Seventh Revised Sheet No. 6 (0.005 percent fuel retention).

[4] *ANR Pipeline Co.*, order on compliance filing, 108 FERC ¶ 61,050 (2004), *order inviting comments*, 109 FERC ¶ 61,038 (2004), order on reh'g and compliance filing, 110 FERC ¶ 61,069 (2005), *order on reh'g and compliance filing*, 111 FERC ¶ 61,290 (2005).

[5] 110 FERC ¶ 61,069, at P18–28.

[6] 18 CFR 154.403.

[7] 18 CFR 284.10(c)(2).

circumstances. Therefore, the second option requires a true-up mechanism. The Commission explained that allowing a particular cost item to be tracked gives the pipeline the opportunity to increase that cost item without regard to the possibility of any offsetting cost reductions. The Commission stated that in return for this opportunity, there should be an assurance that the individual cost item is tracked accurately, and the pipeline should not in any circumstances be permitted to over-recover those costs.

7. In reaching this conclusion, the Commission rejected ANR's contention that it should be permitted to retain its existing tracker without a true-up mechanism because the existing tracker provided it with an incentive to reduce fuel costs and a true-up mechanism would eliminate this incentive. ANR argued that because its fuel recovery mechanism bases each year's fuel retention percentage on the average of fuel use on its system during the three preceding years, ANR was able to retain a portion of any over-recoveries of fuel resulting from a downward trend in fuel use and, on the other hand, must absorb a portion of any under-recoveries if fuel use trends upward. ANR argued that with this tracker in place, it had in fact reduced its fuel use which resulted in savings to its customers.

8. The Commission rejected ANR's argument, stating that allowing ANR to over-recover fuel from its customers is not a necessary incentive to encourage the company to minimize its use of fuel gas. The Commission concluded, with regard to fuel use and lost and unaccounted-for gas, that the benefits of requiring a true-up outweigh any disadvantages.

9. While ANR established a general policy of requiring pipelines such as ANR that have a fuel tracker to include true-up mechanisms, the Commission has only enforced that policy in individual cases where parties raise the issue. Thus, pipelines continue to follow a variety of practices regarding fuel and lost and unaccounted-for gas which can be described as fitting into one of three categories.

- The first category is the stated-rate approach, where a fixed percentage is stated in the tariff as a non-negotiable fee-in-kind retained from the volumes tendered for shipment by each shipper and changed only in a general section 4 rate case. Of 70 major pipelines, 24 have a stated rate.[8]
- The second category is the tracker approach, where provisions in a pipeline's tariff allow the pipeline to make prospective adjustments to its fuel retention rates from time-to-time, but do not include a mechanism to allow the pipeline to reconcile past over-or under-recoveries of fuel. Eight pipelines have tracker mechanisms without true-up requirements.
- The third category is the tracker with a true-up approach, where provisions in a pipeline's tariff allow for periodic adjustments to its fuel retention rates, and also provide for a true-up of past over- and under-recoveries of fuel and lost and unaccounted-for gas. Thirty-eight pipelines have tracker mechanisms with true-ups in their tariffs.

[8] These categories and the number of pipelines noted within each category were identified in a Commission staff analysis of the FERC tariffs of 70 major pipelines.

II. Discussion

10. Pipeline customers have expressed concerns that in-kind gas retained by pipelines for fuel and unaccounted-for gas requirements is excessive, and provides pipelines with significant profits. For example, the Natural Gas Supply Association, in its recent study of pipeline returns, estimated that in aggregate 32 pipelines, representing 80 percent of interstate throughput, generated about $2.1 billion in excess retained fuel over the five-year period ending in 2005.[9] In a recent complaint against National Fuel Gas Supply Corporation, the principal concern was excessive fuel retention.[10]

11. The Commission's review of information filed by pipelines in their 2005 Form No. 2 filings indicates that major pipelines appear to have retained or carried over in their accounts a net sum of over 97 Bcf in fuel beyond what was consumed, lost, or unaccounted-for.[11] At average 2005 prices, this represents over $711 million in value.[12] Of that amount, 58 Bcf, with a value of $427 million, is attributable to those pipelines that do not have a tracker mechanism in their tariff, and nearly 39 Bcf, with a value of over $285 million, is attributable to pipelines with a tracker and no true-up or a tracker with a true-up mechanism.

12. Moreover, with the tightening in natural gas supplies in recent years, there have been substantial increases in the price of natural gas. As a result, the pipeline's fuel charges now make up a significantly greater percentage of the overall cost of transporting natural gas.[13]

13. The increasing significance of pipeline fuel charges in the overall cost of transportation and the concerns about pipeline cost over-recoveries suggest that further investigation of in-kind fuel retention practices is warranted. Therefore, the Commission is seeking comments on whether its current policy with regard to the in-kind recovery of fuel and unaccounted for gas should be modified, both for the purpose of providing pipelines a greater incentive to reduce their fuel use and lost gas and for the purpose of minimizing pipeline over-recoveries of these costs. Specifically the Commission is requesting comments on the following questions:

(1) Should the Commission Continue to Allow Recovery of Pipeline Fuel Costs Through Fixed Fuel Retention Percentages?

14. As described above, the Commission's review of pipeline Form No. 2 data indicates that some pipelines, particularly those with fixed fuel retention percentages, are over-recovering their fuel costs. By contrast, a properly designed fuel tracker and true-up mechanism would ensure that a pipeline does not over-recover its fuel costs. However, allowing pipelines to establish a fixed in-kind fuel retention percentage in a general section 4 rate case is consistent with the Commission's general ratemaking

[9] Natural Gas Supply Association, *Pipeline Cost Recovery of 32 Major Pipelines, FERC Form No. 2 Data (2001–2005)* at 4, *available upon request* at Natural Gas Supply Association, 805 15th Street, N.W., Suite 510, Washington, D.C. 20005.

[10] *Pub. Serv. Comm'n of N.Y.* v. *National Fuel Gas Supply Corp.*, 115 FERC ¶ 61,299, *reconsideration granted in part*, 115 FERC ¶ 61,368 (2006), *order on settlement*, 118 FERC ¶ 61,091 (2007).

[11] Commission staff examined available Form No. 2 data for 2005 to derive the sum of the net fuel retained (the amount received from shippers minus the amount consumed for operations or lost or unaccounted-for).

[12] The Energy Information Administration (EIA) reports the average wellhead price of natural gas for 2005 was $7.33 per MMBtu. (*http://tonto.eia.doe.gov/dnav/ng/ng_sum_lsum_dcu_nus_a.htm*).

[13] A comparison between 2002 and 2006 data for Texas Eastern Transmission Corporation (Texas Eastern) illustrates this point. According to EIA, the average wellhead natural gas price rose from $2.95 per MMBtu in 2002, to $6.42 per MMBtu in 2006. Texas Eastern's maximum rate for interruptible transportation through the full length of the system (Zone STX to Zone M3) in 2002 was $0.6639 per MMBtu, and Texas Eastern retained 8.94 percent of the gas for fuel use, at an additional cost to the shipper of $0.2637 (fuel retention rate times the wellhead price). FERC Gas Tariff, Seventh Revised Volume No. 1, Seventh Revised Sheet No. 49. Thus, the shipper's total cost was $0.9276 per MMBtu. The fuel cost equaled 28.4 percent of the total. In 2006, the maximum rate for interruptible transportation was $0.6231, and Texas Eastern retained 7.94 percent of the gas for fuel, at an additional cost to the shipper of $0.5097. FERC Gas Tariff, Seventh Revised Volume No. 1, Thirty-Second Revised Sheet No. 49. Thus, in 2006, the shipper's total cost was $1.1328 per MMBtu. Here, the fuel cost equaled 45 percent of the total, an increase of about 17 percentage points over the 2002 figure.

policies and section 154.403 of the Commission's regulations. In ANR, the Commission continued to permit pipelines to use that recovery method, stating that the method gives pipelines an incentive to minimize their fuel use through more efficient operations. These efficiencies could benefit customers when the pipeline files its next general section 4 rate case, although until the pipeline does file a new section 4 rate case it would retain the benefit from any savings. Also, a fixed in-kind fuel retention percentage avoids potentially disruptive changes in the pipeline's fuel rates outside a general section 4 rate case, thereby giving customers the benefit of greater certainty as to the pipeline's fuel rates. For that reason, shippers may favor fixed fuel retention percentages.

15. Do the benefits of a fixed retention percentage for recovery of fuel in-kind outweigh the potential for cost over-recovery? Have pipelines with fixed retention percentages reduced their fuel use? If so, provide specific examples. Have pipelines with fixed in-kind retention percentages that have reduced their fuel use filed section 4 rate cases, thereby passing through to customers the benefit of any prospective fuel cost savings? Do pipelines with fixed fuel retention percentages have less incentive to file new section 4 rate cases, such that shippers are not receiving the benefit of any reduced fuel use? Are there barriers that make it difficult for shippers to file section 5 complaints to police over-recovery of fuel costs?

Does the benefit to shippers of greater rate certainty from a fixed fuel percentage justify continuing to permit pipelines to use a fixed fuel retention rate? If pipelines were to be allowed to continue using the fixed fuel retention rate approach, should the Commission consider imposing explicit incentive requirements, such as the application of an RPI–X methodology [14] on either a generic or case-specific basis? If the Commission were to adopt incentive provisions to encourage pipelines to reduce fuel use and lost and unaccounted-for gas, should the Commission adopt a standardized incentive approach, such as the sharing between the pipeline and its shippers of any fuel cost over-recoveries and/or under-recoveries? If so, which standardized incentive approach should the Commission consider?

16. New compressor stations can be designed to minimize fuel use through, for example, motor selection (size, fuel efficiency, throughput flexibility) as well as minimizing pressure drops through the station (yard pipe and facility sizing). Existing compressors stations can also be redesigned to reduce fuel by minimizing pressure drops through the station or installing gas coolers to reduce the need for compression. How does the type of fuel cost recovery mechanism (fixed fuel retention percentages, tracker with no true-up or tracker with true-up) affect these decisions, if any? Similarly, is the fuel cost recovery or other mechanism a factor when deciding whether to construct a larger diameter pipe instead of compression or use advanced SCADA/control systems to manage line pack?

17. As stated above, if the Commission were to adopt incentive provisions to encourage pipelines to reduce fuel use and lost and unaccounted-for gas, one option would be a mechanism for sharing between the pipeline and its shippers of any fuel cost recoveries and/or under-recoveries. How could such a cost-and-benefit-sharing mechanism affect the decisions discussed immediately above? Could a cost-and-benefit-sharing mechanism between the pipeline and its customers ameliorate any concerns that fuel efficient investment is "gold plating" rate base, *i.e.*, making an investment that increases the rate base and the corresponding return without necessarily creating a corresponding benefit to the pipeline's customers?

18. What are the barriers to cost effective, fuel efficient investment, it any? If barriers exist, how does the Commission remove such barriers? What factors, including, if applicable, the type of fuel cost recovery mechanism, affect the amount of research and development (R&D) being done to advance technology in these areas? How could a cost-and-benefit-sharing mechanism between the pipeline and its customers affect the level of R&D? Could fuel efficiency measures impact either directly or indirectly throughput or reliability on the pipeline grid, and if so, in what manner?

19. Some fixed fuel retention provisions were established through settlements. How important are fixed fuel retention provisions to these settlements? If the Commission adopts a new generic policy, should it modify these existing settlements to apply its new policy? If the Commission adopts a generic fuel retention policy, should it permit pipelines and shippers to reach settlements thereafter that provide for recovery of fuel costs in a manner different from that policy?

(2) Should the Commission Mandate That All Pipelines Must Have a Tracker Mechanism for the Recovery of Fuel?

20. While the Commission's general policy is that rates should be based on projections of future costs based on test period experience, the Commission permits certain costs that are volatile and thus particularly difficult to project, to be tracked. Is fuel use and lost and unaccounted-for gas difficult to predict with precision? If so, does the volatility of pipeline fuel use and the experience with the fixed retention percentage justify a blanket requirement that all pipelines recover their fuel costs through a tracker? If not, should the Commission continue the exception that permits pipelines to make limited section 4 filings tracking their fuel costs? Do the recent increases in the cost of fuel further justify use of a tracker?

21. In Order No. 637, the Commission established a principle that pipelines should not profit from the penalty provisions in their tariffs for imbalances, unauthorized overruns, scheduling violations, etc.[15] This was intended to eliminate any incentive for pipelines to propose unnecessary penalties that hinder efficiency.[16] Does permitting pipelines to profit from fuel retention also create undesirable incentives for pipelines? For example, do the profits from excess fuel retention lead some pipelines to avoid updating their base tariff rates because, on balance, they are receiving an adequate cash flow in aggregate?

(3) If the Commission Requires Pipelines To Use a Tracker, Should It Require a True-Up Mechanism?

As stated above, in ANR, the Commission concluded that if a pipeline has a tracker and is therefore able to recover its fuel costs outside of a general section 4 proceeding, it should track those costs accurately and not be permitted to over-recover its fuel costs in any circumstances. Accordingly, the Commission required all pipelines with trackers to include a true-up mechanism. With both a tracker and a true-up mechanism, the pipeline simply passes through its fuel costs to its customers, and, therefore, there may in

[14] An "RPI–X" methodology would allow fuel costs to rise with inflation minus some X-factor deduction to provide a strong incentive towards efficiency and an implicit sharing of future efficiencies with ratepayers. Such methods, if employed in fuel retention provisions, would need to be adapted to fit the circumstances of in-kind retention requirements, rather than monetary payments.

[15] 18 CFR 284.12(b)(v).

[16] Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,315.

fact be little incentive for the pipeline to try to reduce those costs.

22. In ANR, the Commission found that the inclusion of a true-up mechanism in a tracker does not remove all incentives for the pipeline to reduce its fuel use. The Commission explained that pipelines do face some competitive pressures in obtaining marginal throughput, for example, obtaining customers with access to alternative fuels. Because the Commission has held that pipelines may not discount their fuel use percentages since those costs are variable, the only way a pipeline can reduce its fuel percentages in order to help obtain marginal business is by reducing its fuel usage.

23. Was the Commission's conclusion in ANR, that the benefits of requiring a true-up as part of a tracker outweigh the disadvantages of reduced incentives for efficient operation accurate? What impact does a true-up mechanism have on a pipeline's incentive to reduce fuel costs? Is there evidence that pipelines with tracker and true-up mechanisms operate less efficiently than pipelines without such mechanisms?

24. Is there a benefit to giving pipelines an incentive to reduce fuel use, such as the inclusion in the tracker of a profit or loss sharing mechanism? If the pipeline could retain some benefit of fuel cost reductions, would it have a greater incentive to reduce those costs? Would customers benefit from the reduced costs and from sharing in any cost over-recoveries? How important are fuel costs relative to total transportation costs?

(4) Should the Commission Retain Its Current Policy?

25. Finally, the Commission seeks comments on whether it should retain its current policy which gives pipeline discretion over whether to have a tracker mechanism governing the recovery of fuel costs. What are the benefits and/or costs of retaining the current policy? What factors should the Commission consider in deciding whether a change in fuel retention policy is warranted at this time?

III. Procedure for Comments

26. The Commission invites interested persons to submit comments, and other information on the matters, issues and specific questions identified in this notice. Comments are due 60 days from the date of publication in the **Federal Register**. Comments must refer to Docket No. RM07–20–000, and must include the commenter's name, the organization it represents, if applicable, and its address.

27. To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their position. Commenters are requested to identify each specific question posed by the Notice of Inquiry that their discussion addresses and to use appropriate headings. Additional issues the commentors wish to raise should be identified separately. The commenters should double space their comments.

28. Comments may be filed on paper or electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats and commentors may attach additional files with supporting information in certain other file formats. Commentors filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

29. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

IV. Document Availability

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

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

32. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact the Commission's Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (e-mail at *FERCOnlineSupport@ferc.gov* or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (e-mail at *public.referenceroom@ferc.gov*).

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–19386 Filed 9–28–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8476–3]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a lawsuit filed by Rocky Mountain Clean Air Action ("RMCAA") in the United States Court of Appeals for the D.C. Circuit: *Rocky Mountain Clean Air Action* v. *EPA*, No. 07–1012 (D.C. Cir.). Petitioner filed a petition for review challenging EPA's final rule entitled "Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards ("NAAQS") for Early Action Compact Areas," 71 FR 69022 (Nov. 29, 2006). Under the terms of the proposed settlement agreement, deadlines have been established for EPA and the State of Colorado to take specific actions related to the Denver Early Action Compact ("Denver EAC") area. Petitioner's sole remedy if EPA or the State fails to take one of these actions is to request the court to lift the stay and to set a briefing schedule.

DATES: Written comments on the proposed settlement agreement must be received by October 31, 2007.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2007–0991, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov*; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–

ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5598; fax number (202) 564–5603; e-mail address: *tierney.jan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

This case challenges the rule entitled "Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas," 71 FR 69022 (Nov..29, 2006). Specifically, Petitioner challenges EPA's action to issue a further deferral of the effective date of the 8-hour ozone nonattainment designation for the Denver EAC area from December 31, 2006 to July 1, 2007. Under the terms of the proposed settlement, EPA will review and take final action on a regulation submitted by the State of Colorado to EPA in August 2007 ("Regulation No. 7") by March 25, 2008. Additionally, by November 20, 2007, EPA will evaluate the 8-hour ozone air quality data for the Denver EAC area from 2005, 2006 and the first three quarters of 2007 and if the data do not indicate a violation of the 8-hour ozone standard, EPA will issue a final rule further extending the deferral of the effective date of the nonattainment designation until April 15, 2008. If the data do indicate a violation of the 8-hour ozone standard, EPA will take no further action and the nonattainment designation will be effective November 20, 2007. Based on whether the area has an effective nonattainment or an effective attainment designation, the State of Colorado has to submit either an attainment demonstration or a maintenance SIP revision for the Denver EAC to EPA no later than July 1, 2009. If the State submits an attainment demonstration SIP revision, EPA must sign a notice of final agency action approving or disapproving the State of Colorado SIP revision by October 1, 2010. If either EPA or the State fail to meet any of these deadlines, RMCAA's sole remedy is to request the court to lift the stay of the litigation and to set a briefing schedule.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get A Copy Of the Settlement Agreement?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2007–0991) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov*. You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov*, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: September 25, 2007.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E7–19333 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8476–2]

Meeting of the Total Coliform Rule Distribution System Advisory Committee—Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under Section 10(a)(2) of the Federal Advisory Committee Act, the United States Environmental Protection Agency (EPA) is giving notice of a meeting of the Total Coliform Rule Distribution System Advisory Committee (TCRDSAC). The purpose of this meeting is to discuss the public health information, Safe Drinking Water Act (SDWA) framework, Total Coliform Rule (TCR) implementation and compliance, and issues that may affect finished water quality in distribution systems.

The TCRDSAC advises and makes recommendations to the Agency on revisions to the Total Coliform Rule (TCR), and on what information should be collected, research conducted, and/or risk management strategies evaluated to better inform distribution system contaminant occurrence and associated public health risks.

Topics to be discussed in the meeting include available public health information and how it relates to the TCR; how the TCR relates to other SDWA regulations, such as the Ground Water Rule; TCR implementation and compliance; and information on distribution system issues that may impact water quality.

DATES: The public meeting will be held on Wednesday, October 17, 2007 (8:30 a.m. to 6 p.m., Eastern Daylight Time (EDT)) and Thursday, October 18, 2007 (8 a.m. to 3 p.m. EDT). Attendees should register for the meeting by calling Jason Peller at (202) 965–6387, or by e-mail to *jpeller@resolv.org*, no later than October 15, 2007.

ADDRESSES: The meeting will be held at RESOLVE, 1255 Twenty-Third St., NW., Suite 275, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: For general information, contact Jason Peller of RESOLVE at (202) 965–6387. For technical inquiries, contact Ken Rotert (*rotert.kenneth@epa.gov*, (202) 564–5280), Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC 4607M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; fax number: (202) 564–3767.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The Committee encourages the public's input and will take public comment starting at 5:30 p.m. on October 17, 2007, for this purpose. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals interested in presenting an oral statement may notify Jini Mohanty, the Designated Federal Officer, by telephone at (202) 564–5269 no later than October 15, 2007. Any person who wishes to file a written statement can do so before or after a Committee meeting. Written statements received by October 15, 2007, will be distributed to all members before any final discussion or vote is completed. Any statements received on October 17, 2007, or after the meeting will become part of the permanent meeting file and will be forwarded to the members for their information.

Special Accommodations

For information on access or services for individuals with disabilities, please contact Jini Mohanty at (202) 564–5269 or by e-mail at *mohanty.jini@epa.gov*. To request accommodation of a disability, please contact Jini Mohanty, preferably at least 10 days prior to the meeting to give EPA as much time to process your request.

Dated: September 26, 2007.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E7–19316 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8475–2]

Clean Water Act Section 303(d): Final Agency Action on 52 Arkansas Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the final agency action on 52 TMDLs established by EPA Region 6 for waters listed in the State of Arkansas, under section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to the lawsuit styled *Sierra Club, et al.* v. *Clifford, et al.*, No. LR–C–99–114. Documents from the administrative record files for the final 52 TMDLs, including TMDL calculations may be viewed at *www.epa.gov/region6/6wq/npdes/tmdl/index.htm.*

ADDRESSES: The administrative record files for these 52 TMDLs may be obtained by writing or calling Ms. Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas TX 75202–2733. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1999, five Arkansas environmental groups, the Sierra Club, Federation of Fly Fishers, Crooked Creek Coalition, Arkansas Fly Fishers, and Save our Streams (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford, et al.*, No. LR–C–99–114. Among other claims, plaintiffs alleged that EPA failed to establish Arkansas TMDLs in a timely manner.

EPA Takes Final Agency Action on 52 TMDLs

By this notice EPA is taking final agency action on the following 52 TMDLs for waters located within the state of Arkansas:

Segment-reach	Waterbody name	Pollutant
08040205–005	Deep Bayou	Fecal coliform and E. coli.
08040205–013	Bayou Bartholomew	Fecal coliform and E. coli.
08040205–901	Bearhouse Creek	Fecal coliform and E. coli.
08040205–902	Harding Creek	Fecal coliform and E. coli.
08040205–903	Melton's Creek	Fecal coliform and E. coli.
08040205–904	Jacks Bayou	Fecal coliform and E. coli.
08040205–905	Cross Bayou	Fecal coliform and E. coli.

Segment-reach	Waterbody name	Pollutant
08040205–907	Chemin-A-Haut Creek	Fecal coliform and E. coli.
11010012–003	Cooper Creek	Fecal coliform and E. coli.
11010012–008	Strawberry River	Fecal coliform and E. coli.
11010012–010	Little Strawberry River	Fecal coliform and E. coli.
11010012–011	Strawberry River	Fecal coliform and E. coli.
11010012–014	Reeds Creek	Fecal coliform and E. coli.
11010012–015	Mill Creek	Fecal coliform and E. coli.
11010012–016	Caney Creek	Fecal coliform and E. coli.
11010009–902	Data Creek	Fecal coliform and E. coli.
11010014–004	Overflow Creek	Fecal coliform and E. coli.
11010014–006	Overflow Creek	Fecal coliform and E. coli.
11010014–007	Little Red River	Fecal coliform and E. coli.
11010014–008	Little Red River	Fecal coliform and E. coli.
11010014–009	Ten Mile Creek	Fecal coliform and E. coli.
11010014–010	Little Red River	Fecal coliform and E. coli.
11010014–012	Little Red River	Fecal coliform and E. coli.
11010014–027	Middle Fork Little Red River	Fecal coliform and E. coli.
11010014–028	Middle Fork Little Red River	Fecal coliform and E. coli.
11010014–038	South Fork Little Red River	Fecal coliform and E. coli.

EPA requested the public to provide EPA with any significant data or information that might impact the 52 BMDKLs at Federal Register Notice: Volume 72, Number 124, pages 35466 and 35467 (June 28, 2007). No comments were received.

Dated: September 21, 2007.

William K. Honker,

Deputy Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 07–4827 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8475–1]

Clean Water Act Section 303(d): Final Agency Action on 14 Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces final agency action on 14 TMDLs prepared by EPA Region 6 for waters listed in Louisiana's Red and Sabine River Basins, under section 303(d) of the Clean Water Act (CWA). Documents from the administrative record file for the 14 TMDLs, including TMDL calculations and responses to comments, may be viewed at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm*. The administrative record file may be examined by calling or writing Ms. Diane Smith at the address below. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA established five of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Takes Final Agency Action on 14 TMDLs

By this notice EPA is taking final agency action on the following 14 TMDLs for waters located within the Louisiana river basins:

Subsegment	Waterbody name	Pollutant
100401–0556575	Ivan Lake	Mercury.
100703	Black Lake and Clear Lake	Mercury.
100705	Kepler Lake	Mercury.
100709	Grand Bayou—Headwaters to Black Lake Bayou	Mercury.
100709–001	Grand Bayou Reservoir	Mercury.
100803	Saline Bayou—From Saline Lake to Red River	Mercury.
101302	Iatt Lake	Mercury.
101501	Big Saline Bayou—Catahoula Lake to Saline Lake	Mercury.
101502	Saline Lake	Mercury.
101504	Saline Bayou—Larto Lake to Saline Lake (scenic)	Mercury.
101505	Larto Lake	Mercury.
101506	Big Creek—Headwaters to Saline Lake	Mercury.
110101	Toledo Bend Reservoir—TX–LA Line to Toledo Bend Dam	Mercury.
110503	Vernon Lake	Mercury.

EPA requested the public to provide EPA with any significant data or information that might impact the 14 Final TMDLs in the **Federal Register** Notice: Volume 72, Number 137, page 39420 (July 18, 2007). The comments received and the EPA's response to comments and the TMDLs may be found at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm*.

Dated: September 24, 2007

William K. Honker,

Deputy Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. E7–19335 Filed 9–28–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 24, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 30, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, send them to Jerry Cowden, Federal Communications Commission, Room 1–B135, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Jerry Cowden via e-mail at *PRA@fcc.gov* or call (202) 418–0447.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0076.

Title: Common Carrier Annual Employment Report (47 CFR 1.815, 22.321, 23.55, 90.168, 101.4, and 101.311).

Form No.: FCC Form 395.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,100 respondents; 1,100 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain a benefit.

Total Annual Burden: 1,100 hours.

Total Annual Cost: None.

Privacy Impact Assessment: Not applicable.

Nature of Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Common Carrier Annual Employment Report (FCC Form 395) is required of all FCC licensees or permittees of common carrier stations with 16 or more full-time employees. In addition, discrimination reports must be filed by all licensees or permittees, regardless of the number of employees, in accordance with sections 21.307(d), 22.321(c), and 23.55(d) of the Commission's rules. The discrimination complaint requirement can be satisfied by completing Section V of FCC Form 395, instead of by submission of a separate report. Information collected on the Form 395 contains breakouts of various job categories and contains the number of full-time and part-time male and female employees by race and ethnic categories. The Commission will revise the FCC Form 395 to conform to the Equal Employment Opportunity Commission's revised Race and Ethnic Standards.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–19226 Filed 9–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comment Requested

September 21, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before November 30, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0649.

Title: Sections 76.1601, Deletion or Repositioning of Broadcast Signals, 76.1617, Initial Must-Carry Notice, 76.1607 and 76.1708, Principal Headend.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents: 3,300.

Estimated Hours per Response: 0.5 to 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Total Annual Burden: 2,200 hours.

Total Annual Costs: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.1601 requires that effective April 2, 1993, a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

47 CFR 76.1607 states that cable operators shall provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend.

47 CFR 76.1617 states within 60 days of activation of a cable system, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail; within 60 days of activation of a cable system, a cable operator must notify all local commercial and NCE stations that may not be entitled to carriage because they either; and within 60 days of activation of a cable system, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system.

47 CFR 76.1708(a) states that the operator of every cable television system shall maintain for public inspection the designation and location of its principal headend. If an operator changes the designation of its principal headend, that new designation must be included in its public file.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–19244 Filed 9–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 17, 2007.

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 Law 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: Dana Wilson, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–2247 or via the Internet at *Dana.Wilson@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0422.

OMB Approval Date: 09/10/2007.

Expiration Date: 09/30/2010.

Title: Section 68.5, Waivers (Application for Waiver of Hearing Aid Compatibility Requirements.

Form No.: N/A.

Estimated Annual Burden: 10 responses; 3 hours per response; 30 total annual hourly burden.

Needs and Uses: Telephone manufacturers seeking a waiver of 47 CFR 68.4(a)(1), which requires that certain telephones be hearing aid compatible, must demonstrate that compliance with the rule is technologically infeasible or too costly. Information is used by FCC staff to determine whether to grant or dismiss the request.

OMB Control No.: 3060–0874.

OMB Approval Date: 09/11/2007.

Expiration Date: 09/30/2010.

Title: Consumer Complaint Forms, FCC Forms 475–B and FCC Form 2000.

Form No.: FCC Forms 475–B; 2000–A, 2000–B, 2000–C, 2000–D, 2000–E, and 2000–F.

Estimated Annual Burden: 1,330,108 responses; 15 to 30 minutes per response; 347,221 total annual hourly burden.

Needs and Uses: Section 208(a) of the Communications Act of 1934, as amended, authorizes complaints by any "person complaining of anything done or omitted to be done by any common carrier" subject to the provisions of the Act. Section 208(a) further states that, if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall "investigate the matters complained of in such manner and by such means as it shall deem proper." Although the Act does not discuss how the Commission should treat complaints against non-common carriers for violations of the Act or Commission rules, the Commission investigates such complaints in a manner similar to how it treats those against common carriers.

Currently, the Commission has specific complaint forms for the unauthorized conversion of a person's telephone service ("slamming") (FCC Form 501), the broadcast of indecent, obscene, or profane material (FCC Form 475B), and the unlawful telemarketing, "junk faxing," or e-mail messaging to a wireless device (FCC Form 1088).

The new FCC Form 2000 replaces the FCC Form 475, providing greater clarity and ease of use by separating the various complaint subject areas into separate subparts tailored to each subject. The Internet-based version of FCC Form 2000 first asks for the complainant's contact information, including name, address, telephone number, and e-mail address; then presents a "gateway" question to determine the general topic of the complaint: (1) Deceptive or unlawful advertising or marketing; (2) billing, privacy, or service quality; (3) disability access; (4) emergency or public safety; (5) general media issues; or (6) other complaints. As described below, the form provides examples of the types of issues covered by each topic. After the complainant answers this question, the form asks additional questions geared to the specific type of violation reported. The form poses certain mandatory threshold questions that must be answered for the Commission to determine whether a violation has occurred. It also provides space for complainants to provide additional information and details that may be necessary or helpful to the Commission in investigating the complaint.

In printed format, FCC Form 2000 has six subparts, one for each area described above. Each subpart of the printable version of FCC Form 2000 consolidates the complainant's personal information with detailed questions about the specific violations alleged by the complainant. The information collected by FCC Form 2000 may ultimately become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate. FCC Form 475–B, Obscene, Profane, and Indecent Complaint Form is used by consumers to lay out precisely their complaint(s) and issue(s) concerning the practices of the communications entities, which

consumers believe may have aired obscene, profane, and/or indecent programming. FCC Form 475–B remains unchanged.

OMB Control No.: 3060–0967.
OMB Approval Date: 09/05/2007.
Expiration Date: 09/30/2010.
Title: Section 79.2, Accessibility of Programming Providing Emergency Information.
Form No.: N/A.
Estimated Annual Burden: 100 responses; 1 to 2 hours per response; 210 total annual hourly burden.

Needs and Uses: 47 CFR 79.2 is designed to ensure that persons with hearing and visual disabilities have access to the critical details of emergency information. The Commission adopted the rules to assist persons with hearing disabilities on April 14, 2000, in the *Second Report and Order* in MM Docket No. 95–176. The Commission modified the rules to assist persons with visual disabilities on July 21, 2000, in the *Report and Order* in MM Docket No. 99–339. As the Commission noted in the previous PRA submission, the Commission adopted its rules for persons with different disabilities at different times.

47 CFR 79.2(c) requires that each complaint transmitted to the Commission include the following: the name of the video programming distributor at issue; the date and time of the omission of the emergency information; and the type of emergency. The Commission then notifies the video programming distributor, which must reply within 30 days.

OMB Control No.: 3060–0968
OMB Approval Date: 09/13/2007.
Expiration Date: 09/30/2010.
Title: Slamming Complaint Form.
Form No.: FCC Form 501.
Estimated Annual Burden: 3,600 responses; 15 minutes per response; 900 total annual hourly burden.

Needs and Uses: On December 17, 1998, the Commission announced to the public via news release its plan to provide consumers with tools to better protect themselves from telephone related fraud, as well as offer consumers an easy means to file complaints. On December 23, 1998, the Commission released a *Second Report and Order and Further Notice of Proposed Rulemaking* (FCC 98–334) adopting new rules to prevent the unauthorized change by telecommunications carriers of consumers' selections of telecommunications service providers (slamming), and revealing future initiatives to protect consumers from telephone related fraud. One of those initiatives was the development of the electronic slamming complaint form: FCC Form 501. FCC Form 501, Slamming Complaint Form, is devised to ensure complete and efficient submission of necessary information to process slamming complaints. FCC Form 501 remains available to consumers electronically and in hard copy. The Commission will use this information to provide redress to consumers and to act against companies engaged in this illegal practice.

OMB Control No.: 3060–1084.
OMB Approval Date: 06/25/2007.
Expiration Date: 06/30/2010.
Title: Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers (CARE).
Form No.: N/A.
Estimated Annual Burden: 433,040 responses; 0.27 to 6.7 hours per response; 39,840 total annual hourly burden.

Needs and Uses: In addition to the existing information collection requirements that we previously approved by OMB, in the Order on Reconsideration, In the Matter of Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local Exchange Carriers (LECs) and Interexchange Carriers (IXCs)(2005 Report and Order), CG Docket No. 02–386, FCC 06–134, which was released on September 13, 2006, the Commission concluded that minor modifications to 47 CFR 64.4002 are needed to clarity carriers' respective obligations under that rule section.

Paragraph 64.4002(d) is modified to require that LEC notify an IXC when the LEC has removed at its local switch a presubscribed customer of the IXC in connection with the customer's selection of "no-PIC" (preferred interexchange carrier) status. In this context, the selection of "no-PIC" status by the customer refers to the selection of no carriers for interLATA (Local Access Transport and Area) service or no carrier for interLATA service. The Commission concludes that this modification is needed to ensure that an IXC does not continue billing a customer for non-usage-related monthly charges where that customer has contacted his current LEC or his current IXC to select "no-PIC" status.

Paragraph 64.4002(e) of the Commission's rules is modified to include the effective date of any changes to a customer's local service account and the carrier identifications code of the customer's IXC among the categories of information that must be provided to the IXC by the LEC. The Commission concludes that knowing the effective date of account changes will help IXCs to maintain accurate customer account information and that including the carrier identification code of the customer's IXC will enable an IXC to verify that it is the proper recipient of the transmitted information.

Paragraph 64.402(g) of the Commission's rules is modified to make the information categories included in paragraph 64.402(g) consistent with those included in other LEC notifications requirements. Paragraph 64.4002(g) also is modified to require that when a customer changes LECs, but wishes to retain his current PIC, the new LEC must so notify the current PIC so that the current PIC does not erroneously assume, absent additional notification from the new LEC, that the customer also wishes to cancel his current PIC.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.

[FR Doc. E7–19250 Filed 9–28–07; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ACE Radio Corporation, Station NEW, Facility ID 166075, BNPH–20060308AJG, from Mertzon, TX, to Goodfellow AFB, TX; Alaska Educational Radio System, Inc., Station KABN-FM, Facility ID 93588, BPED–20070907AHA, from Kasilof, AK, to Sterling, AK; American Family Association, Station WMSB, Facility ID 42060, BMPED–20070830ADY, from Senatobia, MS, to Byhalia, MS; American Family Association, Station WQVI, Facility ID 93254, BPED–20070905ABH, from Forest, MS, to Madison, MS; American Family Association, Station WIGH, Facility ID 25543, BPED–20070906AAK, from Lexington, TN, to Jackson, TN; Appaloosa Broadcasting Company, Inc., Station KIMX, Facility ID 82007, BPH–20070822AAL, from LARAMIE, 9Y, to Nunn, CO; California State University, Sacramento, Station KXSR, Facility ID 8328, BPED–20070907AGI, from Groveland, CA, to Angles Camp, CA; Coltrace Communications, Inc., Station WTWS, Facility ID 15563, BPH–

20070907AEO, from Harrison, MI, to Houghton Lake, MI; Coltrace Communications, Inc., Station WUPS, Facility ID 49694, BPH–20070907AEP, from Houghton Lake, MI, to Harrison, MI; Csn International, Station WAJC, Facility ID 41094, BPED–20070821ABE, from Wilson, NC, to Zebulon, NC; CSN International, Station WTMK, Facility ID 90498, BPED–20070830AAU, from Lowell, IN, to Wanatah, IN; CSN International, Station KJCQ, Facility ID 124890, BPED–20070906ADK, from Quincy, CA, to WESTWOOD, CA; CSN International, Station KJCU, Facility ID 87930, BPED–20070906ADN, from Laytonville, CA, to Fort Bragg, CA; CSN international, Station KAJC, Facility ID 91565, BPED–20070906ADR, from Salem, OR, to Millersburg, OR; Cumulus Licensing, LLC., Station NEW, Facility ID 162261, BMPH–20070911ACM, from Chatfield, MN, to Eyota, MN; Cumulus Licensing, LLC., Station KFIL-FM, Facility ID 34428, BPH–20070911ACO, from Preston, MN, to Chatfield, MN; Educational Media Foundation, Station WKVF, Facility ID 859, BPH–20070830ADZ, from Byhalia, MS, to Germantown, TN; Educational Media Foundation, Station WKVZ, Facility ID 64493, BPH–20070830AEB, from Ripley, TN, to Hayti, MO; Educational Media Foundation, Station KAER, Facility ID 93355, BPED–20070907AFS, from St. George, UT, to Mesquite, NV; Four Rivers Community Broadcasting Corporation, Station 990901MA, Facility ID 94223, BMPED–20070906AFP, from Mcconnellsburg, PA, To Hustontown, PA; Gla-Mar Broadcasting, LLC., Station KBZB, Facility ID 78999, BPH–20070803ADL, from Pioche, NV, to SANTA CLARA, UT; Horizon Christian Fellowship, Station WWDL, Facility ID 91476, BMPED–20070907AGR, from Lebanon, IN, to Plainfield, IN; Indiana Community Radio Corp., Station WJCF, Facility ID 91193, BPED–20070827AEJ, from Morristown, IN, to Greenfield, IN; New Century Media Group, LLC., Station WKXU, Facility ID 22322, BPH–20060921ACX, from Louisburg, NC, to Hillsborough, NC; Northern Star Broadcasting, LLC., Station WMKC, Facility ID 42141, BPH–20070905AAN, from St. Ignace, MI, to Indian River, MI; Rural California Broadcasting Corp., Station KRCB-FM, Facility ID 57946, BPED–20070906AFL, from Santa Rosa, CA, to Windsor, CA; Sutton Radiocasting Corporation, Station WRBN, Facility ID 56201, BMPH–20070830AEJ, from Clayton, GA, to Dillsboro, NC; Tejas Broadcasting, LLP, Station NEW, Facility ID 162373, BMPH–20070829ADC, from Texico, NM, to Bovina, TX; White Park Broadcasting, Inc., Station KANT, Facility ID 164287, BMPH–20070828AAX, from Guernsey, WY, to Glendo, WY.

DATES: Comments may be filed through November 30, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm*. A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. E7–19341 Filed 9–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2831]

Petitions for Partial Reconsideration of Action In Rulemaking Proceeding

September 24, 2007.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by October 16, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject

In the Matter of Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02–55).

Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels.

Amendment of Part 2 of the Commission's Rules Allocate Spectrum below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems (ET Docket No. 00–258).

Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service (RM–9498).

Petition for Rule Making of UT Starcom, Inc., Concerning the Unlicensed Personal Communications Service (RM–10024).

Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service (ET Docket No. 95–18).

Number of Petitions Filed: 2.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–19338 Filed 9–28–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2007–17]

Filing Dates for the Ohio Special Election in the 5th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Ohio has scheduled elections on November 6, 2007, and December 11, 2007, to fill the U.S. House of Representatives seat in the Fifth Congressional District vacated by the late Congressman Paul E. Gillmor. Committees required to file reports in connection with the Special Primary Election on November 6, 2007, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on December 11, 2007, shall file a 12-day Pre-Primary Report, a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Ohio

Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on October 25, 2007; a 12-day Pre-General Report on November 29, 2007; and a consolidated 30-day Post-General and Year-End Report on January 10, 2008. (See chart below for the closing date for each report).

All principal campaign committees of candidates participating *only* in the Special Primary Election shall file a 12-day Pre-Primary Report on October 25, 2007. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semiannual basis in 2007 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Ohio Special Primary or Special General Elections by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Ohio Special Primary or Special General Election must continue to file according to the monthly reporting schedule.

Disclosure of Electioneering Communications (Individuals and Other Unregistered Organizations)

Federal Election Commission electioneering communications rules govern television and radio communications that refer to a clearly identified federal candidate and are distributed within 30 days prior to a special primary election or 60 days prior to a special general election. 11 CFR 100.29. See also 2 U.S.C. 434(f). The statute and regulations require, among other things, that individuals and other groups not registered with the FEC who make electioneering communications costing more than $10,000 in the aggregate in a calendar year disclose that activity to the Commission within 24 hours of the distribution of the communication. See 2 U.S.C. 434(f)(1) and 11 CFR 104.20.

The 30-day electioneering communications period in connection with the Ohio Special Primary runs from October 7, 2007, through November 6, 2007. The 60-day electioneering communications period in connection with the Ohio Special General runs from October 12, 2007, through December 11, 2007.

CALENDAR OF REPORTING DATES FOR OHIO SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Quarterly filing committees involved in *only* the special primary (11/06/07), must file			
October quarterly		—waived—	
Pre-primary	10/17/07	10/22/07	10/25/07
Year-end	12/31/07	01/31/08	01/31/08
Semiannual filing committees involved in *only* the special primary (11/06/07), must file			
Pre-primary	10/17/07	10/22/07	
Year-end	12/31/07	01/31/08	01/31/08
Quarterly filing committees involved in *both* the special primary (11/06/07) and special general (12/11/07) must file			
October Quarterly		—waived—	
Pre-primary	10/17/07	10/22/07	10/25/07
Pre-general	11/21/07	11/26/07	11/29/07
Post-general & year-end [2]	12/31/07	01/10/08	01/10/08
Semiannual filing committees involved in *both* the special primary (11/06/07) and special general (12/11/07) must file			
Pre-primary	10/17/07	10/22/07	10/25/07
Pre-general	11/21/07	11/26/07	11/29/07
Post-general & year-end [2]	12/31/07	01/10/08	01/10/08
Quarterly filing committees involved in *only* the special general (12/11/07), must file			
Pre-general	11/21/07	11/26/07	
Post-general & year-end [2]	12/31/07	01/10/08	01/10/08
Semiannual filing committees involved in *only* the special general (12/11/07), must file			
Pre-general	11/21/07	11/26/07	11/29/07
Post-general & year-end [2]	12/31/07	01/10/08	01/10/08

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Committees must file a consolidated Post-General and Year-End Report by the filing date of the Post-General Report.

Dated: September 24, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

[FR Doc. E7–19261 Filed 9–28–07; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or

the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2007.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. South Atlantic Bancshares, Inc., Myrtle Beach, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of South Atlantic Bank, Myrtle Beach, South Carolina (in organization).

B. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Community Bank Investors of America, LP, Midlothian, Virginia; to become a bank holding company by acquiring 34 percent of the outstanding voting shares of Bay Bank, Tampa, Florida, upon the conversion of Bay Financial Savings Bank, F.S.B., Tampa, Florida, to a state member bank.

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First Olathe Bancshares, Inc., Overland Park, Kansas; to acquire 99.88 percent of the voting shares of First National Bank of Scottsdale, Scottsdale, Arizona (in organization).

Board of Governors of the Federal Reserve System, September 26, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–19314 Filed 9–28–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–07–0591]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. Alternatively, to obtain a copy of the data collection plans and instrument, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30333; comments may also be sent by e-mail to *omb@cdc.gov*.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a 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 information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Select Agent Distribution Activity: Request for Select Agent (OMB Control No. 0920–0591)—Extension with change—National Center for Preparedness, Detection, and Control of Infectious Diseases (NCPDCID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention is requesting a three year extension to continue data collection under the Select Agent Distribution Activity. The form used for this activity is currently approved under OMB Control No. 0920–0591. The purpose of this data collection is to provide a systematic and consistent mechanism to review requests that come to CDC for Select Agents. The term select agents is used to described a limited group of viruses, bacteria, rickettsia, and toxins that have the potential for use as agents of bioterrorism, inflicting significant morbidity and mortality on susceptible populations. In light of current terrorism concerns and the significant NIH grant monies directed toward Select Agent research, CDC receives hundreds of requests for Select Agents from researchers. The approximately 900 applicants are required to complete an application form in which they identify themselves and their institution, provide a Curriculum Vitae or biographical sketch, a summary of their research proposal, and sign indemnification and material transfer agreement statements. A user fee will be collected to recover costs for materials, handling and shipping (except for public health laboratories). The cost to the respondent will vary based on which agent is requested. In this request, CDC is requesting approval for approximately 450 hours; no change from the currently approved burden. The only change to this data collection request is updating the name of the National Center on the application form. The National Center for Preparedness, Detection, and Control of Infectious Diseases officially became a National Center in April, 2007.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Researcher	900	1	30/60	450

Dated: September 25, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–19301 Filed 9–28–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1399–GNC]

RIN 0938–ZB02

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During Fiscal Year 2008

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: General notice with comment period.

SUMMARY: This general notice with comment period describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries (FI) and carriers in the administration of the Medicare program.

The results of these evaluations are considered whenever we enter into, renew, or terminate a FI agreement, carrier contract, or take other contract actions, for example, assigning or reassigning providers or services to a FI or designating regional or national intermediaries. We are requesting public comment on these criteria and standards.

DATES: *Effective Date:* The criteria and standards are effective on October 1, 2007.

Comment Date: To be assured consideration, comments must be no later than 5 p.m. on November 30, 2007.

ADDRESSES: In commenting, please refer to file code CMS–1399–GNC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/eRulemaking.* Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1399—GNC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1399—GNC Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members. 7500 Security Boulevard, Baltimore, MD 21244–1850; or Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lee Ann Crochunis, (410) 786–3363.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this notice to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–1399—GNC and the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.cms.hhs.gov/eRulemaking.* Click on the link "Electronic Comments on CMS Regulations" on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

A. Medicare Part A—Hospital Insurance

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with CMS. These agencies or organizations, known as fiscal intermediaries (FIs), determine whether medical services are covered under Medicare, determine correct payment amounts and then make payments to the health care providers (for example, hospitals, skilled nursing facilities (SNFs), and community mental health centers) on behalf of the beneficiaries. Section 1816(f) of the Act requires us to develop criteria, standards, and procedures to evaluate an FI's performance of its functions under its agreement.

Section 1816(e)(4) of the Act requires us to designate regional agencies or organizations, which are already Medicare FIs under section 1816 of the Act, to perform claim processing functions for freestanding home health agency (HHA) claims. We refer to these organizations as Regional Home Health Intermediaries (RHHIs) under the 42 CFR 421.117.

The evaluation of FI, performance is part of our contract management process. These evaluations need not be limited to the current fiscal year (FY), other fixed term basis, or agreement term.

B. Medicare Part B—Supplementary Medical Insurance

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B, Supplementary Medical Insurance of the Medicare program. Beneficiaries,

physicians, and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the amount payable for the services or supplies, and then make payment to the appropriate party.

Under section 1842(b)(2) of the Act, we are required to develop criteria, standards, and procedures to evaluate a carrier's performance of its functions under its contract. Evaluations of Medicare fee-for-service (FFS) contractor performance need not be limited to the current Federal Fiscal Year (FFY), other fixed term basis, or contract term. The evaluation of carrier performance is part of our contract management process.

C. Development and Publication of Criteria and Standards

In addition to the statutory requirements, § 421.120, § 421.122, and § 421.201, provide for publication of a **Federal Register** notice to announce criteria and standards for FIs and carriers before the beginning of each evaluation period. In the September 29, 2006 **Federal Register** (71 FR 57513), we published a general notice with comment the current criteria and standards for FIs and carriers.

To the extent possible, we make every effort to publish the criteria and standards before the beginning of the FFY, which is October 1. If we do not publish a **Federal Register** notice before the new FFY begins, readers may presume that until and unless notified otherwise, the criteria and standards that were in effect for the previous FFY remain in effect.

In those instances in which we are unable to meet our goal of publishing the subject **Federal Register** notice before the beginning of the FFY, we may publish the criteria and standards notice at any subsequent time during the year. If we publish a notice in this manner, the evaluation period for the criteria and standards that are the subject of the notice will be effective beginning on the first day of the first month following publication of this notice in the **Federal Register**. Any revised criteria and standards will measure performance prospectively; that is, any new criteria and standards in the notice will be applied only to performance after the effective date listed on the notice.

It is not our intention to revise the criteria and standards that will be used during the evaluation period once this information is published in a **Federal Register** notice. However, on occasion, either because of administrative action or statutory mandate, there may be a need for changes that have a direct impact on the criteria and standards previously published, or that require the addition of new criteria or standards, or that cause the deletion of previously published criteria and standards. If we must make these changes, we will publish an amended **Federal Register** notice before implementation of the changes. In all instances, necessary manual issuances will be published to ensure that the criteria and standards are applied uniformly and accurately. Also, as in previous years, this **Federal Register** notice will be republished and the effective date revised if changes are warranted as a result of the public comments received on the criteria and standards.

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub. L. 108–173) was enacted on December 8, 2003. Section 911 of the MMA establishes the Medicare FFS Contracting Reform (MCR) initiative that will be implemented over the next several years. This provision requires that we use competitive procedures to replace our current FIs and carriers with Medicare Administrative Contractors (MACs). The MMA requires that we compete and transition all work to MACs by October 1, 2011.

FIs and carriers will continue administering Medicare FFS work as may be required until the final competitively selected MAC is up and operating. We will continue to develop and publish standards and criteria for use in evaluating the performance of FIs and carriers as long as these types of contractors exist.

II. Analysis of and Response to Public Comments Received on FY 2007 Criteria and Standards

We received five comments in response to the September 29, 2006 **Federal Register** general notice with comment. All comments were reviewed, but none necessitated reissuance of the FY 2007 Criteria and Standards. Comments submitted did not pertain specifically to the FY 2007 Criteria and Standards.

III. Criteria and Standards—General

[If you choose to comment on issues in this section, please include the caption "CRITERIA AND STANDARDS—GENERAL" at the beginning of your comments.]

Basic principles of the Medicare program are to pay claims promptly and accurately, and to foster good beneficiary and provider relations. Contractors must administer the Medicare program efficiently and economically. The goal of performance evaluation is to ensure that contractors meet their contractual obligations. We measure contractor performance to ensure that contractors do what is required of them by statute, regulation, contract, and our directives.

We have developed a contractor oversight program for FY 2008 that outlines what is expected of the contractor; measures the performance of the contractor; evaluates the contractor's performance against those expectations; and provides for appropriate contract action based upon the evaluation of the contractor's performance.

As a means to monitor the accuracy of Medicare FFS payments, we have established the Comprehensive Error Rate Testing (CERT) program that measures and reports error rates for claims payment decisions made by carriers and FIs. Since November 2003, the CERT program has been measuring and reporting claims payment error rates for each individual carrier. FI-specific rates became available November 2004.

These rates measure not only how well contractors are doing at implementing automated review edits and identifying which claims to subject to manual medical review, but they also measure the impact of the contractor's provider outreach/education, as well as the effectiveness of the contractor's provider call center(s). We will use these contractor-specific error rates as a means to evaluate a contractor's performance.

Several times throughout this notice, we refer to the appropriate reading level of letters, decisions, or correspondence that are mailed or otherwise transmitted to Medicare beneficiaries from intermediaries or carriers. In those instances, appropriate reading level is defined as whether the communication is below the eighth grade reading level unless it is obvious that an incoming request from the beneficiary contains language written at a higher level. In these cases, the appropriate reading level is tailored to the capacities and circumstances of the intended recipient.

In addition to evaluating performance based upon our expectations for FY 2008, we may also conduct follow-up evaluations throughout FY 2008 of areas in which contractor performance was out of compliance with statute, regulations, and our performance expectations during prior review years where contractors were required to submit a Performance Improvement Plan (PIP).

We may also utilize Statement of Auditing Standards–70 (SAS–70) reviews as a means to evaluate

contractors in some or all business functions.

In FY 2001, we established the Contractor Rebuttal Process as a commitment to continual improvement of contractor performance evaluation (CPE). We will continue the use of this process in FY 2008. The Contractor Rebuttal Process provides the contractors an opportunity to submit a written rebuttal of CPE findings of fact. Whenever we conduct an evaluation of contractor operations, contractors have 7 calendar days from the date of the CPE review exit conference to submit a written rebuttal. The CPE review team or, if appropriate, the individual reviewer considers the contents of the rebuttal before the issuance of the final CPE report to the contractor.

The FY 2008 CPE for FIs and carriers is structured into five criteria designed to meet the stated objectives. The first criterion, claims processing, measures contractual performance against claims processing accuracy and timeliness requirements, as well as activities in handling appeals. Within the claims processing criterion, we have identified those performance standards that are mandated by legislation, regulation, or judicial decision. These standards include claims processing timeliness, the accuracy of Medicare Summary Notices (MSNs), the timeliness of FI and carrier redeterminations, and the appropriateness of the reading level and content of FI and carrier redetermination letters. Further evaluation in the claims processing criterion may include, but is not limited to, the accuracy of claims processing, the percent of claims paid with interest, the accuracy of redeterminations, timeliness of forwarding case files to and effectuation of Qualified Independent Contractor (QIC) decisions, and effectuation of administrative law judge (ALJ) decisions.

The second criterion, customer service, assesses the adequacy of the service provided to customers by the contractor in its administration of the Medicare program. Functions that may be evaluated under this criterion include, but will not be limited to, the following: (1) Timeliness and accuracy of all correspondence to providers; (2) monitoring the quality of replies provided by the contractor's provider telephone customer service representatives (quality call monitoring); and (3) provider outreach and education activities.

The third criterion, payment safeguards, evaluates whether the Medicare Trust Fund is safeguarded against inappropriate program expenditures. Intermediary and carrier performance may be evaluated in the areas of Medical Review (MR), Medicare Secondary Payer (MSP), Overpayments (OP), and Provider Enrollment (PE). In addition, FIs performance may be evaluated in the area of Audit and Reimbursement (A&R).

In FY 1996, the Congress enacted the Health Insurance Portability and Accountability Act (HIPAA), Medicare Integrity Program, giving us the authority to contract with entities other than, but not excluding, Medicare carriers and intermediaries to perform certain program safeguard functions. In situations where one or more program safeguard functions are contracted to another entity, we may evaluate the flow of communication and information between a Medicare FFS contractor and the payment safeguard contractor. All benefit integrity functions have been transitioned from the intermediaries and carriers to the program safeguard contractors.

Mandated performance standards for FIs in the payment safeguards criterion include the accuracy of decisions on SNF demand bills and the timeliness of processing Tax Equity and Fiscal Responsibility Act (TEFRA) target rate adjustments, exceptions, and exemptions. There are no mandated performance standards for carriers in the payment safeguards criterion. FIs and carriers may also be evaluated on any Medicare Integrity Program (MIP) activities if performed under their agreement or contract.

The fourth criterion, fiscal responsibility, evaluates the contractor's efforts to protect the Medicare program and the public interest. Contractors must effectively manage Federal funds for both the payment of benefits and the costs of administration under the Medicare program. Proper financial and budgetary controls, including internal controls, must be in place to ensure contractor compliance with its agreement with HHS and CMS.

Additional functions reviewed under this criterion may include, but are not limited to, adherence to approved budget, compliance with the Budget and Performance Requirements (BPRs), and compliance with financial reporting requirements.

The fifth and final criterion, administrative activities, measures a contractor's administrative management of the Medicare program. A contractor must efficiently and effectively manage its operations. Proper systems security (general and application controls), Automated Data Processing (ADP) maintenance, and disaster recovery plans must be in place. A contractor's evaluation under the administrative activities criterion may include, but is not limited to, establishment, application, documentation, and effectiveness of internal controls that are essential in all aspects of a contractor's operation, as well as the degree to which the contractor cooperates with us in complying with the Federal Managers' Financial Integrity Act of 1982 (FMFIA). Administrative activities evaluations may also include reviews related to contractor implementation of our general instructions and data and reporting requirements.

We have developed separate measures for RHHIs in order to evaluate the distinct RHHI functions. These functions include the processing of claims from freestanding HHAs, hospital-affiliated HHAs, and hospices. Through an evaluation using these criteria and standards, we may determine whether the RHHI is effectively and efficiently administering the program benefit or whether the functions should be moved from one FIs to another in order to gain that assurance.

In sections IV. through VI. of this notice, we list the criteria and standards to be used for evaluating the performance of intermediaries, RHHIs, and carriers.

IV. Criteria and Standards for Fiscal Intermediaries

[If you choose to comment on issues in this section, please include the caption "Criteria and Standards for Intermediaries" at the beginning of your comments.]

A. Claims Processing Criterion

The claims processing criterion contains the following three mandated standards:

Standard 1. Not less than 95.0 percent of clean electronically submitted nonperiodic interim payment claims are paid within statutorily specified timeframes. Clean claims are defined as claims that do not require Medicare FIs to investigate or develop outside of their Medicare operations on a prepayment basis. Specifically, the Act specifies that clean nonperiodic interim payment electronic claims be paid no earlier than the 14th day after the date of receipt, and that interest is payable for any clean claims if payment is not issued by the 31st day after the date of receipt.

Standard 2. Redetermination letters prepared in response to beneficiary initiated appeal requests are written in a manner calculated to be understood by the beneficiary. Letters must contain the required elements as specified in § 405.956.

Standard 3. All redeterminations must be concluded and mailed within 60 days of receipt of the request, unless the party submits documentation after the request, in which case the decision-making timeframe is extended for up to 14 calendar days for each submission.

Because FIs process many claims for benefits under the Part B portion of the Medicare Program, we also may evaluate how well a FI follows the procedures for processing appeals of any claims for Part B benefits.

Additional functions that may be evaluated under this criterion include, but are not limited to, the following:

- Accuracy of claims processing.
- Remittance advice transactions.
- Establishment and maintenance of a relationship with Common Working File (CWF) Host.
- Accuracy of redetermination decisions.
- QIC case file requirements.
- Accuracy and timeliness of processing appeals as set forth in part 405, subpart I (§ 405.900 et seq.).

B. Customer Service Criterion

Functions that may be evaluated under this criterion include, but are not limited to, the following:

- Maintaining a properly programmed interactive voice response system to assist with inquiries.
- Performing quality call monitoring.
- Training customer service representatives.
- Entering valid call center performance data in the customer service assessment and management system or its successor the provider inquiry evaluation system.
- Providing timely and accurate written replies to providers that address the concerns raised and are written with an appropriate customer-friendly tone and clarity.
- Ensuring written correspondence is evaluated for quality.
- Conducting provider outreach and education-activities.
- Effectively maintaining an Internet Web site dedicated to furnishing providers and physicians timely, accurate, and useful Medicare program information.

C. Payment Safeguards Criterion

The Payment Safeguard criterion contains the following two mandated standards:

Standard 1. Decisions on SNF demand bills are accurate.

Standard 2. TEFRA target rate adjustments, exceptions, and exemptions are processed within mandated timeframes. Specifically, applications must be processed to completion within 75 days after receipt by the contractor or returned to the hospitals as incomplete within 60 days of receipt.

FIs may also be evaluated on any MIP activities if performed under their Part A contractual agreement. These functions and activities include, but are not limited to, the following:

- Audit and Reimbursement

+ Performing the activities specified in our general instructions for conducting audit and settlement of Medicare cost reports.

+ Establishing accurate interim payments.

- Medical Review

+ Increasing the effectiveness of medical review activities.

+ Exercising accurate and defensible decision-making on medical reviews.

+ Collaborating with other internal components and external entities to ensure the effectiveness of medical review activities.

- Medicare Secondary Payer

+ Accurately following MSP claim development and edit procedures.

+ Auditing hospital files and claims to determine that claims are being filed to Medicare appropriately.

+ Supporting the Coordination of Benefits Contractor's efforts to identify responsible payers primary to Medicare.

+ Supporting the MSP Recovery functions for provider, physician or other supplier debts and duplicate provider, physician or other supplier payments.

+ Accurately reporting MSP savings.

- Overpayments

+ Collecting and referring Medicare debts in a timely manner.

+ Accurately reporting and collecting overpayments.

+ Adhering to our instructions for management of Medicare Trust Fund debts.

- Provider Enrollment

+ Complying with assignment of staff to the provider enrollment function and training the staff in procedures and verification techniques.

+ Complying with the operational standards relevant to the process for enrolling providers.

D. Fiscal Responsibility Criterion

We may review the FI's efforts to establish and maintain appropriate financial and budgetary internal controls over benefit payments and administrative costs. Proper internal controls must be in place to ensure that contractors comply with their agreements with us.

Additional functions that may be reviewed under the fiscal responsibility criterion include, but are not limited to, the following:

- Adherence to approved program management and MIP budgets.
- Compliance with the BPRs.
- Compliance with financial reporting requirements.
- Control of administrative cost and benefit payments.

E. Administrative Activities Criterion

We may measure an FI s administrative ability to manage the Medicare program. We may evaluate the efficiency and effectiveness of its operations, its system of internal controls, and its compliance with our directives and initiatives.

We may measure an FI's efficiency and effectiveness in managing its operations. Proper systems security (general and application controls), ADP maintenance, and disaster recovery plans must be in place. A FI must also test system changes to ensure the accurate implementation of our instructions.

Our evaluation of FI under the administrative activities criterion may include, but is not limited to, reviews of the following:

- Systems security.
- ADP maintenance (configuration management, testing, change management, and security).
- Implementation of the Electronic Data Interchange (EDI) standards adopted for use under HIPAA.
- Disaster recovery plan and systems contingency plan. Data and reporting requirements implementation.
- Internal controls establishment and use, including the degree to which the contractor cooperates with the Secretary in complying with the FMFIA.
- Implementation of our general instructions.

V. Criteria and Standards for Regional Home Health Intermediaries (RHHIs)

[If you choose to comment on issues in this section, please include the caption "Criteria and Standards for RHHIs" at the beginning of your comments.]

The following three standards are mandated for the RHHI criterion:

Standard 1. Not less than 95.0 percent of clean electronically submitted nonperiodic interim payment home health and hospice claims are paid within statutorily specified timeframes. Clean claims are defined as claims that do not require Medicare FIs to investigate or develop them outside of their Medicare operations on a prepayment basis. Specifically, the statute specifies that clean non-periodic interim payment electronic claims be paid no earlier than the 14th day after the date of receipt, and that interest is payable for any clean claims if payment

is not issued by the 31st day after the date of receipt.

Standard 2. Redetermination letters prepared in response to beneficiary initiated appeal requests are written in a manner calculated to be understood by the beneficiary. Letters must contain the required elements as specified in § 405.956.

Standard 3: All redeterminations must be concluded and mailed within 60 days of receipt of the request, unless the party submits documentation after the request, in which case the decision-making timeframe is extended for up to 14 calendar days for each submission.

We may use this criterion to review an RHHI's performance for handling the HHA and hospice workload. This includes processing HHA and hospice claims timely and accurately, properly paying and settling HHA cost reports, and accurately processing redeterminations of initial determinations from beneficiaries, HHAs, and hospices.

VI. Criteria and Standards for Carriers

[If you choose to comment on issues in this section, please include the caption "Criteria and Standards for Carriers" at the beginning of your comments.]

A. Claims Processing Criterion

The claims processing criterion contains the following four mandated standards:

Standard 1. Not less than 95.0 percent of clean electronically submitted claims are processed within statutorily specified timeframes. Clean claims are defined as claims that do not require Medicare carriers to investigate or develop outside of their Medicare operations on a prepayment basis. Specifically, the Act specifies that clean non-periodic interim payment electronic claims be paid no earlier than the 14th day after the date of receipt, and that interest is payable for any clean claims if payment is not issued by the 31st day after the date of receipt.

Standard 2. Ninety-eight percent of MSNs are properly generated. Our expectation is that MSN messages are accurately reflecting the services provided.

Standard 3. Redetermination letters prepared in response to beneficiary initiated appeal requests are written in a manner calculated to be understood by the beneficiary. Letters must contain the required elements as specified in § 405.956.

Standard 4. All redeterminations must be concluded and mailed within 60 days of receipt of the request, unless the party submits documentation after the request, in which case the decision-making timeframe is extended for up to 14 calendar days for each submission.

Additional functions that may be evaluated under this criterion include, but are not limited to, the following:

- Accuracy of claims processing.
- Remittance advice transactions.
- Establishment and maintenance of relationship with Common Working File (CWF) Host.
- Accuracy of redetermination decisions.
- QIC case file requirements.
- Accuracy and timeliness of processing appeals as set forth in part 405, subpart I (§ 405.900 et seq.).

B. Customer Service Criterion

Contractors must meet our performance expectations that providers are served by prompt and accurate administration of the program in accordance with all applicable laws, regulations, and our general instructions.

Functions that may be evaluated under this criterion include, but are not limited to, the following:

- Maintaining a properly programmed interactive voice response system to assist with inquiries.
- Performing quality call monitoring.
- Training customer service representatives.
- Entering valid call center performance data in the customer service assessment and management system or its successor the provider inquiry evaluation system.
- Providing timely and accurate written replies to providers that address the concerns raised and are written with an appropriate customer-friendly tone and clarity.
- Ensuring written correspondence is evaluated for quality.
- Conducting provider outreach and education, activities.
- Effectively maintaining an Internet Web site dedicated to furnishing providers timely, accurate, and useful Medicare program information.

C. Payment Safeguards Criterion

Carriers may be evaluated on any MIP activities if performed under their contracts. In addition, other carrier functions and activities that may be reviewed under this criterion include, but are not limited to the following:

- Medical Review

+ Increasing the effectiveness of medical review activities.

+ Exercising accurate and defensible decision-making on medical reviews.

+ Collaborating with other internal components and external entities to ensure the effectiveness of medical review activities.

- Medicare Secondary Payer

+ Accurately following MSP claim development/edit procedures.

+ Supporting the Coordination of Benefits Contractor's efforts to identify responsible payers primary to Medicare.

+ Supporting the Medicare Secondary Payer Recovery functions for provider, physician or other supplier debts and duplicate provider, physician or other supplier payments.

+ Accurately reporting MSP savings.

- Overpayments

+ Collecting and referring Medicare debts in a timely manner.

+ Accurately reporting and collecting overpayments.

+ Compliance with our instructions for management of Medicare Trust Fund debts.

- Provider Enrollment

+ Complying with assignment of staff to the provider enrollment function and training staff in procedures and verification techniques.

+ Complying with the operational standards relevant to the process for enrolling suppliers.

D. Fiscal Responsibility Criterion

We may review the carrier's efforts to establish and maintain appropriate financial and budgetary internal controls over benefit payments and administrative costs. Proper internal controls must be in place to ensure that contractors comply with their contracts.

Additional functions that may be reviewed under the Fiscal Responsibility criterion include, but are not limited to, the following:

- Adherence to approved program management and MIP budgets.
- Compliance with the BPRs.
- Compliance with financial reporting requirements.
- Control of administrative cost and benefit payments.

E. Administrative Activities Criterion

We may measure a carrier's administrative ability to manage the Medicare program. We may evaluate the efficiency and effectiveness of its operations, its system of internal controls, and its compliance with our directives and initiatives.

We may measure a carrier's efficiency and effectiveness in managing its operations. Proper systems security (general and application controls), ADP maintenance, and disaster recovery plans must be in place. Also, a carrier must test system changes to ensure accurate implementation of our instructions.

Our evaluation of a carrier under this criterion may include, but is not limited to, reviews of the following:

- Systems security.
- ADP maintenance (configuration management, testing, change management, and security).
- Disaster recovery plan/systems contingency plan.
- Data and reporting requirements implementation.
- Internal controls establishment and use, including the degree to which the contractor cooperates with the Secretary in complying with the FMFIA.
- Implementation of the Electronic Data Interchange (EDI) standards adopted for use under the HIPAA.
- Implementation of our general instructions.

VII. Action Based on Performance Evaluations

[If you choose to comment on this section, please include the caption "Action Based on Performance Evaluations" at the beginning of your comments.]

We evaluate a contractor's performance against applicable program requirements for each criterion. Each contractor must certify that all information submitted to us relating to the contract management process, including, without limitation, all files, records, documents and data, whether in written, electronic, or other form, is accurate and complete to the best of the contractor's knowledge and belief. A contractor is required to certify that its files, records, documents, and data are not manipulated or falsified in an effort to receive a more favorable performance evaluation. A contractor must further certify that, to the best of its knowledge and belief, the contractor has submitted, without withholding any relevant information, all information required to be submitted for the contract management process under the authority of applicable law(s), regulation(s), contract(s), or our manual provision(s). Any contractor that makes a false, fictitious, or fraudulent certification may be subject to criminal or civil prosecution, as well as appropriate administrative action. This administrative action may include debarment or suspension of the contractor, as well as the termination or nonrenewal of a contract.

If a contractor meets the level of performance required by operational instructions, it meets the requirements of that criterion. When we determine a contractor is not meeting performance requirements, we will use the terms "major nonconformance" or "minor nonconformance" to classify our findings. A major nonconformance is a nonconformance that is likely to result in failure of the supplies or services, or to materially reduce the usability of the supplies or services for their intended purpose. A minor nonconformance is a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services. The contractor will be required to develop and implement PIPs for findings determined to be either a major or minor nonconformance. The contractor will be monitored to ensure effective and efficient compliance with the PIP, and to ensure improved performance when requirements are not met.

The results of performance evaluations and assessments under all criteria applying to FIs, carriers, and RHHIs will be used for contract management activities and will be published in the contractor's annual Report of Contractor Performance (RCP). We may initiate administrative actions as a result of the evaluation of contractor performance based on these performance criteria. Under sections 1816 and 1842 of the Act, we consider the results of the evaluation in our determinations when—

- Entering into, renewing, or terminating agreements or contracts with contractors; and
- Deciding other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These decisions are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, these decisions depend on the following:

+ Relative overall performance compared to other contractors.
+ Number of criteria in which nonconformance occurs.
+ Extent of each nonconformance.
+ Relative significance of the requirement for which nonconformance occurs within the overall evaluation program.
+ Efforts to improve program quality, service, and efficiency.
+ Deciding the assignment or reassignment of providers and designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the effective and efficient administration of the Medicare program.

In addition, if the cost incurred by the FIs, RHHI, or carrier to meet its contractual requirements exceeds the amount that we find to be reasonable and adequate to meet the cost that must be incurred by an efficiently and economically operated FIs or carrier, these high costs may also be grounds for adverse action.

VIII. Collection of Information Requirements

This document does not impose information collection and record keeping requirements. Consequently the Office of Management and Budget need not review it under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IX. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are unable to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "Comment Date" section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in the section entitled as "Analysis of and Response to Public Comments Received on FY 2008 Criteria and Standards" of that document.

Authority: Sections 1816(f), 1834(a)(12), and 1842(b) of the Social Security Act (42 U.S.C. 1395h(f), 1395m(a)(12), and 1395u(b)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 24, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Editorial Note: This document was received at the Office of the Federal Register on September 26, 2007.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0353]

Drug Products Containing Hydrocodone; Enforcement Action Dates

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to take enforcement action, as described in this notice, against

unapproved drug products containing hydrocodone bitartrate, or any other salt or ester of hydrocodone (hereinafter collectively "hydrocodone"), and persons who manufacture or cause the manufacture of such products or their shipment in interstate commerce. Unapproved hydrocodone products have been implicated in reports of medication errors, including improper dosing and dispensing the wrong drug. Some of these products omit important labeling warnings and information or are inappropriately labeled for use in young children. Drug products containing hydrocodone are new drugs that require approved applications because they are not generally recognized as safe and effective. Manufacturers who wish to market a drug product containing hydrocodone must obtain FDA approval of a new drug application (NDA) or an abbreviated new drug application (ANDA).

DATES: This notice is effective October 1, 2007.

Subject to the limitations set forth in section II.B of this notice, for marketed unapproved drug products containing hydrocodone that have a National Drug Code (NDC) number listed with FDA under section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360) on the effective date of this notice ("currently marketed and listed hydrocodone products"), the agency intends to exercise its enforcement discretion after October 1, 2007 as follows. FDA does not intend to initiate action to enforce section 505(a) of the act (21 U.S.C. 355(a)) ("drug enforcement actions") against a person[1] based solely on the person manufacturing, or otherwise introducing or delivering for introduction into interstate commerce ("shipping"), currently marketed and listed hydrocodone products, unless such a person is still manufacturing or shipping such products on or after October 31, 2007 with a label or labeling that, as of October 1, 2007, indicates any use for children under 6 years of age. FDA does not intend to initiate drug enforcement actions based solely on a person manufacturing currently marketed and listed hydrocodone products that are not labeled for use in children under 6 years of age unless such person is still manufacturing them on or after December 31, 2007. Further, FDA does not intend to initiate drug enforcement actions based solely on a person shipping currently marketed and listed hydrocodone products that are not labeled for use in children under 6 years of age unless such person is still shipping them on or after March 31, 2008. Unapproved drug products containing hydrocodone that are not currently marketed, or that are currently marketed but are not listed with the agency on the effective date of this notice, must, as of the effective date of this notice, have approved applications prior to the drug products' introduction or delivery for introduction into interstate commerce. Submission of an application does not excuse timely compliance with this notice.

ADDRESSES: All communications in response to this notice should be identified with Docket No. 2007N–0353 and directed to the appropriate office listed as follows:

Regarding applications under section 505(b) of the act: Division of Analgesics, Anesthetics, and Rheumatology Products (for analgesic formulations/indications), or Division of Pulmonary and Allergy products (for antitussive formulations/indications), Office of New Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Silver Spring, MD 20993–0002.

Regarding applications under section 505(j) of the act: Office of Generic Drugs, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

All other communications: Jennifer Devine, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 11919 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jennifer Devine, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 11919 Rockville Pike, Rockville, MD 20852, 301–827–8965, e-mail: *jennifer.devine@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Drug Efficacy Study Implementation (DESI) Review

When initially enacted in 1938, the act required that "new drugs" be approved for safety by FDA before they could legally be sold in interstate commerce. To this end, the act made it the sponsor's burden to show FDA that its drug was safe through the submission of an NDA. Between 1938 and 1962, if a drug obtained approval, FDA considered drugs that were identical, related, or similar (IRS)[2] to the approved drug to be "covered" by that approval, and allowed those IRS drugs to be marketed without independent approval.

In 1962, Congress amended the act to require that new drugs be proven effective for their labeled indications, as well as safe. This amendment also required FDA to conduct a retrospective evaluation of the effectiveness of the drug products that FDA had approved as safe between 1938 and 1962. FDA contracted with the National Academy of Science/National Research Council (NAS/NRC) to make an initial evaluation of the effectiveness of more than 3,400 products that were approved only for safety. The NAS/NRC reports for these drug products were submitted to FDA in the late 1960s and early 1970s. The agency reviewed and reevaluated the reports and published its findings in **Federal Register** notices. DESI was FDA's administrative implementation of the NAS/NRC reports. DESI covered the 3,400 products specifically reviewed by NAS/NRC, as well as the even larger number of IRS products that entered the market without FDA approval.

All drugs covered in the DESI review are "new drugs" under the act. If FDA's final DESI determination classifies a drug product as ineffective, that drug product and those IRS to it can no longer be marketed and are subject to enforcement action as unapproved new drugs. If FDA's final DESI determination classifies the drug product as effective for its labeled indications, the drug can be marketed provided it is the subject of an application approved for safety and efficacy. Those drug products with NDAs approved before 1962 for safety therefore require approved supplements to their original applications; IRS drug products require an approved NDA or ANDA, as appropriate. Furthermore, labeling for drug products classified as effective may contain only those indications for which the review found the product effective unless the firm marketing the product has received an approval for the additional indication(s).

B. DESI Review of Hydrocodone Products

FDA first approved hydrocodone for use as an antitussive in the United States on March 23, 1943 (NDA 5–213,

[1] A "person" includes individuals, partnerships, corporations, or associations (21 U.S.C. 321(e)).

[2] Section 310.6(b)(1) (21 CFR 310.6(b)(1)) provides: "An identical, related, or similar drug. includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure of known pharmacological properties."

HYCODAN, submitted by ENDO Laboratories, Inc.). A subtherapeutic amount of homatropine methylbromide was later added to this product to help prevent abuse or intentional overdose. Two different hydrocodone products (including HYCODAN) were reviewed under the DESI program. In March 1982, FDA determined that the application holder of NDA 6–529, CODITRATE SYRUP containing hydrocodone bitartrate and potassium guaiacolsulfonate, held by The Central Pharmaceutical Co., failed to demonstrate that each component made a contribution to the claimed effect of the CODITRATE SYRUP (47 FR 11973, March 19, 1982). In May 1982, FDA withdrew approval of NDA 6–529 based on lack of substantial evidence of effectiveness (47 FR 21301, May 18, 1982). In June 1982, FDA classified HYCODAN syrup, tablets, and powder containing hydrocodone bitartrate and homatropine methylbromide (NDA 5–213) as effective for symptomatic relief of cough, and further classified the product as a new drug for which an approved NDA was required prior to marketing (47 FR 23809, June 1, 1982). As described in § 310.6, agency determinations regarding new drug status set forth in these notices also apply to any drug products that are IRS to the drugs named in the DESI notices. Currently marketed analgesic formulations were first marketed after the 1962 amendments to the act, and thus were not reviewed under the DESI program.

C. Hydrocodone Products

Hydrocodone is an opioid derived from codeine and is recognized for both analgesic and antitussive effects. FDA has approved applications for prescription hydrocodone drug products intended to treat pain and for prescription hydrocodone products intended to suppress cough. Hydrocodone (bulk or single entity product) is a Schedule II narcotic under the Controlled Substances Act (21 U.S.C. 801 *et seq.*), and combination products with hydrocodone and non-narcotic active ingredients, which are labeled either for use as analgesics or for use as antitussives, are Schedule III. Hydrocodone is one of the most potent drugs available to relieve pain and treat cough symptoms. Despite its medical benefit for such purposes, however, hydrocodone is also a potentially lethal drug of abuse. Overdose can produce respiratory depression, coma, and cardiac arrest, in addition to other adverse events. Hydrocodone use can also impair physical or mental capabilities needed to drive, operate machinery, or perform other potentially hazardous activities. It can also lead to psychological and physical drug dependence. Analysis of population-based epidemiologic data from the Substance Abuse and Mental Health Services Administration National Survey on Drug Use and Health shows that the misuse and abuse associated with the opioid class overall has been increasing in recent years. For example, in 2005, more than 17 million Americans aged 12 or older reported non-medical use of a hydrocodone pain reliever at least once in their lifetime, representing eight percent of the population aged 12 years or older. Of those 17 million individuals, more than 8 million reported using hydrocodone in the past year.

As of 2005.[3] FDA has received more than 400 spontaneous reports[4] of serious adverse events associated with all antitussive hydrocodone-containing products. While significant under-reporting of adverse events from spontaneous sources in the general population occurs, the adverse event categories most often reported in association with such hydrocodone-containing products involve: (1) The central nervous system, including psychotic behavior and drug abuse; (2) the gastrointestinal tract, including nausea, vomiting, and constipation; (3) the cardiopulmonary system, including cardiac arrest and respiratory depression; (4) hypersensitivity, including pruritis, dermatitis, and pharyngeal edema; and (5) intentional and unintentional overdose.

While many of the types of adverse events associated with approved and unapproved products are generally similar, there are additional risks associated with the unapproved products. For instance, the agency has received reports of medication errors associated with formulation changes, such as changing the strength of the active ingredient, and reports of confusion based on similarity between the proprietary names of unapproved hydrocodone-containing antitussive products and other drug products. Look-alike and sound-alike similarities between the product names may have contributed to reported medication errors. FDA reviews and approves proposed proprietary names as part of the drug approval process, thereby helping to minimize potential safety issues that could be associated with product name confusion. In addition, changes in the formulation of unapproved products may cause healthcare practitioners to inadvertently prescribe the wrong dose or combination of active ingredients. The drug approval requirement allows the agency to evaluate proposed changes to approved product formulations to ensure that such modifications meet FDA standards for safety and efficacy, and can also help ensure that formulation changes are accompanied by any appropriate changes in product trade names or labeling, or other measures that may be warranted to minimize confusion and risks to patients. Modifications of product formulation that skirt FDA's drug approval process thus pose an increased risk of confusing healthcare practitioners and causing harm to consumers, such as under- or overdose, particularly in pediatric patients.

Variations and omissions in labeling information for unapproved hydrocodone-containing antitussive drug products also pose significant safety concerns. For example, labeling for approved antitussive products explains that the safety and effectiveness of such products in pediatric patients under 6 years old have not been established, and does not indicate any approved dosage for that population. By contrast, there is unapproved drug product labeling that, for example, states that children as young as 2 years old may use the product "as directed by a physician," or that includes dosage instructions purported to be appropriate for children as young as 2 years old. Moreover, some unapproved product labeling omits or changes safety warnings or other information that is important to ensure safe use, such as drug interactions or potential adverse experiences.

Finally, even the expected risks associated with use of approved products that contain hydrocodone are potentially greater for unapproved products because the quality, safety, and efficacy of unapproved formulations have not been demonstrated to FDA. For example, the ingredients and bioavailability of unapproved products have not been submitted for FDA review, nor has FDA had the opportunity to assess the adequacy of their chemistry, manufacturing, and controls specifications.

[3] Data in the current system dates back to 1969, when FDA first implemented an adverse event reporting system.

[4] A "spontaneous report" is a report from an individual (e.g., a healthcare professional or consumer) to a sponsor or FDA that describes a suspected adverse event.

II. Legal Status

A. Hydrocodone Products Are New Drugs Requiring Approved Applications

Under its DESI review, FDA determined that hydrocodone bitartrate is a new drug. Firms must, therefore, have an approved application before marketing any drug product that contains hydrocodone bitartrate, or any other salt or ester of hydrocodone (collectively, "hydrocodone"). There are numerous approved formulations available for both analgesic and antitussive indications. There are many approved applications for hydrocodone-containing analgesic products, generally in combination with acetaminophen, ibuprofen, or, less commonly, aspirin. It appears that all currently marketed analgesic formulations that have an NDC number listed with the agency are approved. There are several approved antitussive formulations, including HYCODAN syrup and tablets, and their approved generic equivalents. There is also an approved application for a hydrocodone polistirex and chlorpheniramine polistirex combination suspension, extended-release product (NDA 19–111), marketed as TUSSIONEX. However, there are hundreds of unapproved hydrocodone-containing products marketed as antitussives that are listed with FDA. Such products include, but are not limited to, combinations with an expectorant, such as guaifenesin, or a decongestant, such as phenylephrine or pseudoephedrine.

B. Notice of Enforcement Action

Although not required to do so by the Administrative Procedure Act (5 U.S.C. Subchapter II), the act, or any rules issued under its authority, or for any other legal reason, FDA is providing this notice to persons who are marketing unapproved products containing hydrocodone that the agency intends to take enforcement action against such products and those who manufacture them or cause them to be manufactured or shipped in interstate commerce. Consistent with the priorities identified in the agency's guidance entitled "Marketed Unapproved Drugs—Compliance Policy Guide" (the Marketed Unapproved Drugs CPG), the agency is taking action at this time against these products because: (1) As described in section I of this document, hydrocodone is a drug with significant safety risks and (2) there are FDA-approved drug products containing hydrocodone; thus the continued marketing of unapproved versions is a direct challenge to the drug approval process.

Manufacturing or shipping unapproved products containing hydrocodone can result in enforcement action, including seizure, injunction, or other judicial or administrative proceeding. Consistent with policies described in the Marketed Unapproved Drugs CPG, the agency does not expect to issue a warning letter or any other further warning to firms marketing unapproved drug products containing hydrocodone prior to taking enforcement action. The agency also reminds firms that, as stated in the Marketed Unapproved Drugs CPG, any unapproved drug marketed without a required approved drug application is subject to agency enforcement action at any time. The issuance of this notice does not in any way obligate the agency to issue similar notices or any notice in the future regarding marketed unapproved drugs.[5]

As described in the Marketed Unapproved Drugs CPG, the agency may, at its discretion, exercise its enforcement discretion and identify a period of time during which the agency does not intend to initiate an enforcement action against a currently marketed unapproved drug on the ground that it lacks an approved application under section 505 of the act in order to, for example, preserve access to medically necessary drugs or ease disruption to affected parties. With respect to unapproved hydrocodone drug products, the agency intends to exercise its enforcement discretion for only a limited period of time because: (1) The lack of uniformity in the labeling of unapproved drug products poses serious safety risks (particularly for unapproved products inappropriately labeled for use in young children); (2) there are numerous approved products, including ones containing hydrocodone, that may be used to treat the symptoms of cough in most instances; and (3) there are numerous approved hydrocodone analgesic formulations on the market. Therefore, the agency intends to implement this notice as follows.

This notice is effective October 1, 2007. However, for unapproved drug products containing hydrocodone that are currently marketed and listed (i.e., that have an NDC number listed with FDA on the date of this notice), the agency intends to exercise its enforcement discretion as follows. FDA does not intend to initiate action to enforce section 505(a) of the act ("drug enforcement actions"), against a person based solely on the person manufacturing or otherwise introducing, or delivering for introduction into interstate commerce ("shipping"), such products unless such a person is still manufacturing or shipping such products on or after October 31, 2007 with a label or labeling that, as of October 1, 2007 indicates any use for children under 6 years of age. FDA does not intend to initiate drug enforcement actions based solely on a person manufacturing currently marketed and listed unapproved hydrocodone products that are not labeled for use in children under 6 years of age unless the person is still manufacturing them on or after December 31, 2007. FDA does not intend to initiate drug enforcement actions based solely on a person shipping currently marketed and listed unapproved hydrocodone drug products that are not labeled for use in children under 6 years of age unless a person is still shipping them on or after March 31, 2008.[6]

The agency, however, does not intend to exercise its enforcement discretion as outlined previously if: (1) A person manufacturing or shipping an unapproved product covered by this notice is violating other provisions of the act or (2) it appears that a person, in response to this notice, increases the manufacture or interstate shipment of unapproved drug products covered by this notice above the person's usual volume during these periods. Nothing in this notice, including FDA's intent to exercise its enforcement discretion, alters any person's liability or obligations in any other enforcement action, or precludes the agency from initiating or proceeding with enforcement action in connection with any other alleged violation of the act, whether or not related to an unapproved drug product covered by this notice. Similarly, a person who is or becomes enjoined from marketing unapproved drugs may not resume marketing

[5] The agency's general approach in dealing with these products in an orderly manner is spelled out in the Marketed Unapproved Drugs CPG. That CPG, however, provides notice that any product that is being marketed illegally, and the persons responsible for causing the illegal marketing of the product, are subject to FDA enforcement action at any time.

[6] If FDA finds it necessary to take enforcement action against a product covered by this notice, the agency may take action relating to all of the defendant's other violations of the act at the same time. For example, if a firm continues to manufacture or market a product covered by this notice after the applicable enforcement date has passed, to preserve limited agency resources, FDA may take enforcement action relating to all of the firm's unapproved drugs that require applications at the same time (see, e.g., *United States* v. *Sage Pharmaceuticals*, 210 F.3d 475, 479-480 (5th Cir. 2000) (permitting the agency to combine all violations of the act in one proceeding, rather than taking action against multiple violations of the act in "piecemeal fashion")).

unapproved hydrocodone products based on FDA's exercise of enforcement discretion as set forth in this notice. FDA also will not exercise its enforcement discretion with respect to continued manufacturing or shipping of any combination drug product that contains a drug subject to an earlier deadline for the exercise of agency enforcement discretion.[7]

Drug manufacturers and distributors should be aware that the agency is exercising its enforcement discretion as described previously only in regard to unapproved drug products containing hydrocodone that are marketed under an NDC number listed with the agency on the effective date of this notice. Unapproved drug products containing hydrocodone that are not currently marketed, or that are currently marketed but are not listed with the agency on the effective date of this notice, must, as of the effective date of this notice, have approved applications prior to their introduction or delivery for introduction into interstate commerce. Moreover, submission of an application does not excuse timely compliance with this notice.

C. Discontinued Products

Some firms may have previously discontinued the manufacturing or distribution of products covered by this notice without removing them from the listing of their products under section 510(j) of the act. Other firms may discontinue manufacturing or marketing listed products in response to this notice. Firms that wish to notify the agency of product discontinuation should send a letter, signed by the firm's chief executive officer, fully identifying the discontinued product(s), including the product NDC number(s), and stating that the product(s) has (have) been discontinued. The letter should be sent to Jennifer Devine (see **ADDRESSES**) with a copy to the district director of the firm's FDA district office. Firms should also update the listing of their product(s) under section 510(j) of the act to reflect discontinuation of unapproved hydrocodone products. FDA plans to rely on its existing records, the results of a subsequent inspection, or other available information when we evaluate whether to initiate enforcement action.

[7]For example, if a person is marketing an unapproved product containing both hydrocodone bitartrate and timed-release guaifenesin on or after August 27, 2007, then under the notice FDA issued May 29, 2007 (72 FR 29517), that person is subject to immediate enforcement; FDA will not extend the exercise of its enforcement discretion to the later dates set out in this notice.

D. Reformulated Products

In addition, FDA cautions firms against reformulating their products into unapproved new drugs without hydrocodone that are marketed under the same name or substantially the same name (including a new name that contains the old name) in anticipation of an enforcement action based on this notice. In the Marketed Unapproved Drugs CPG, FDA stated that it intends to give higher priority to enforcement actions involving unapproved drugs that are reformulated to evade an anticipated FDA enforcement action. In addition, reformulated products marketed under a name previously identified with a different active ingredient, or combination of active ingredients, have the potential to confuse healthcare practitioners and harm patients.

This notice is issued under sections 502 and 505 of the act (21 U.S.C. 352) and under authority delegated to the Deputy Commissioner for Policy under section 1410.10 of the FDA Staff Manual Guide.

Dated: September 25, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–19340 Filed 9–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007P–0074]

Joint Meeting of the Nonprescription Drugs Advisory Committee and the Pediatric Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of a joint meeting of the Nonprescription Drugs Advisory Committee and the Pediatric Advisory Committee. This meeting was announced in the **Federal Register** of August 16, 2007 (72 FR 46091). The amendment is being made to reflect a change in the *Procedure* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Darrell Lyons, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5630 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *darrell.lyons@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), codes 3014512541 and 8732310001. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 16, 2007, FDA announced that a joint meeting of Nonprescription Drugs Advisory Committee and the Pediatric Advisory Committee would be held on October 18 and 19, 2007. On page 46091, in the third column, the third sentence of the *Procedure* portion of the document is changed to read as follows:

Procedure: Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 10:30 a.m. on October 19, 2007.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 23, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–19332 Filed 9–28–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Clinical Sciences and Epidemiology National Cancer Institute.

Date: November 5, 2007.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31/Conference Room 10, Rockville, MD 20852.

Time: 6 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Double Tree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Brian E. Wojcik, PhD, Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 6116 Executive Boulevard, Room 2114, Bethesda, MD 20892, (301) 496–7628, *wojcikb@mail.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsc.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 21, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4819 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors for Basic Sciences National Cancer Institute. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intrumural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences National Cancer Institute.

Date: November 5–6, 2007.

Time: November 5, 2007, 6 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Double Tree Hotel, 8120 Wisconsin AVenue, Bethesda, MD 20814.

Time: November 6, 2007, 9 a.m. to 3:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Florence E. Farber, PhD, Executive Secretary, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2115, Bethesda, MD 20892, 301–496–7628, *ff6p@nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 21, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4820 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Complementary and Alternative Medicine Special Emphasis Panel, October 25, 2007, 9 a.m. to October 26, 2007, 5 p.m. Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD, 20814 which was published in the **Federal Register** on August 16, 2007, 7246093.

The meeting notice is being amended due to the meeting dates changing from October 25–26, 2007 to October 25, 2007. The meeting is closed to the public.

Dated: September 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4811 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Short Term Research Education Program (R25's).

Date: October 22, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Rina Das, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892–7294, (301) 435–0297, *dasr2@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 98.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4810 Filed 09–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health;

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NIH Research Scientist Development Awards (K01's).

Date: October 26, 2007.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Brookshire Suites, 120 East Lombard Street, Baltimore, MD 21202.

Contact Person: Chang Sook Kim, PhD, Scientific Review Administrator, Review Branch, DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 21, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4822 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: October 22, 2007.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Anne Krey, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6908. *ak41o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 20, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4807 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: October 23, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889. *bhatnagg@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 20, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4808 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Joint Training.

Date: October 3, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Embassy Suites Hotel. 2100 Massachusetts Ave., Washington, DC 20008.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203,

Bethesda, MD 20892–9529, (301) 496–5388. *wiethorp@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4812 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Clinical Trial Review.

Date: October 25, 2007.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway, 7802 Wisconsin Avenue, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Biodemografic Factors of Longevity.

Date: November 5, 2007.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Bldg., RM. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bita Nakhai, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Proteopathies of Aging Brain.

Date: November 26, 2007.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Bethesda, MD 20770, (Telephone Conference Call).

Contact Person: Louise L. Hsu, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, 301–496–7705, *hsul@exmur.nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 20, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4814 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Study Section Conflict Review of Applications.

Date: October 11, 2007.

Time: 8:30 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington DC/Silver Spring, 8777 Georgia Ave., Silver Springs, MD 20910.

Contact Person: Katrina L. Foster, PhD, Scientific Review Administrator, National Inst on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 3037, Rockville, MD 20852 301–443–3037, *katrina@mail.nih.gov.*

This notice is being submitted late due to conflict of interest that arose; making it necessary to review applications in a SEP (EE97).

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 24, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4816 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel, Review R21s.

Date: October 17, 2007.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr. 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892, (301) 594–4827, *kims@email.nidr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review R21s.

Date: November 30, 2007.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr, 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892, (301) 594–4827, *kims@email.nidr.nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review R21 & R13.

Date: December 7, 2007.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr, 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892, (301) 594–4827, *kims@email.nidr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 24, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4817 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health; National Institute Of Child Health And Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Global Network For Women's And Children's Health Research.

Date: October 25, 2007.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Division Of Scientific Review, National Institute of Child Health, and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–6680, *skandasa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 21, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy

[FR Doc. 07–4821 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: October 23–24, 2007.

Time: October 23, 2007, 8:30 a.m. to 5 p.m.

Agenda: Provide advice to the Office of Research on Women's Health (ORWH) on appropriate research activities with respect to women's health and related studies to be undertaken by the national research institutes; to provide recommendations regarding ORWH activities; to meet the mandates of the office; and for discussion of scientific issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Time: October 24, 2007, 9 a.m. to 12 p.m.

Agenda: Vulvodynia Awareness Campaign Roll-Out.

Place: National Press Building, 529 14th Street., NW., Washington, DC 20045.

Contact Person: Joyce Rudick, Director, Programs & Management, Office of Research on Women's Health, Office of the Director, National Institutes of Health, Building 1, Room 201, Bethesda, MD 20892, 301–402–1770.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page *http://www4.od.nih.gov/orwh/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 20, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4815 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly

unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genetics of Borderline Personality Disorders.
Date: October 1, 2007.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001.
Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–1721, *kosse@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Eukaryotic Pathogens.
Date: October 11, 2007.
Time: 11 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Soheyla Saadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group; Biostatistical Methods and Research Design Study Section.
Date: October 12, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.
Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695, *hardyan@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuropharmachology Small Business.
Date: October 12, 2007.
Time: 8 a.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Boris P. Sokolov, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–435–1197, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypertension and Microcirculation.
Date: October 12, 2007.
Time: 10:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Rajiv Kumar, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Sleep and Circadian Rhythms.
Date: October 12, 2007.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Christine L. Melchior, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: CNS Injury.
Date: October 12, 2007.
Time: 1:30 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Alexander Yakovlev, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.
Date: October 14–16, 2007.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria, Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Priscilla B. Chen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group; Gastrointestinal Cell and Molecular Biology Study Section.
Date: October 14–15, 2007.
Time: 6 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Najma Begum, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1243, *begumn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Development Methods of In Vivo Imaging and Bioengineering Research.
Date: October 14–16, 2007.
Time: 6 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Behrouz Shabestari, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7854, Bethesda, MD 20892, (301) 435–2409, *shabestb@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Modeling and Analysis of Biological Systems Study Section.
Date: October 14–15, 2007.
Time: 7 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Malgorzata Klosek, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@mail.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group; Hepatobiliary Pathophysiology Study Section.
Date: October 15–16, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group; Clinical and Integrative Gastrointestinal Pathobiology Study Section.
Date: October 15, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Devices.
Date: October 15, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Robert J. Matus, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, 301–435–2204, *matusr@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: October 15–16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Francois Boller, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7848, Bethesda, MD 20892, 301–435–1019, *bollerf@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: October 15, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rajiv Kumar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Renal and Urological Studies Integrated Review Group; Cellular and Molecular Biology of the Kidney Study Section.

Date: October 15–16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group; Vascular Cell and Molecular Biology Study Section.

Date: October 15–16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: October 15, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Carlyle Suites Hotel, 1731 New Hampshire Avenue, Washington, DC 20009.

Contact Person: Biao Tian, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.

Date: October 15, 2007.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892, (301) 435–1043, *amirs@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

Date: October 15–16, 2007.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Brain Disorder and Clinical neuroscience.

Date: October 15, 2007.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jay Joshi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Brain Disorders and Clinical Neuroscience.

Date: October 15, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jay Joshi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7846, Bethesda, MD 20892, (301) 435–1184, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Prevention.

Date: October 15, 2007.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John L. Meyer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–1213, *meyerjl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 19, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4809 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Health of the Population Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: October 16-17, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Christopher T. Sempos, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892, (301) 451–1329, *semposch@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Risk, Prevention and Intervention for Addictions Study Section.

Date: October 16-17, 2007.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Avenue at 15th Street, NW., Washington, DC 20004.

Contact Person: Gayle M. Boyd, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7808, Bethesda, MD 20892, 301–451–9956, *gboyd@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Nature's Solutions.

Date: October 17-18, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–4522, *gibsonj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Diagnostic and Treatment II, SBIR/STTR.

Date: October 17-18, 2007.

Time: 11 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Hungyi Shau, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–435–1720, *shauhung@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Diagnostic and Treatment 1, SBIR/STTR.

Date: October 17–18, 2007.

Time: 11 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Hungyi Shau, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–435–1720, *shauhung@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ACTS Small Business Special Emphasis Panel.

Date: October 17, 2007.

Time: 1:15 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Harold M. Davidson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Motor Function and Voice Therapy.

Date: October 17, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848 (for overnight mail use room # and 20817 zip), Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Stress.

Date: October 17, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Brian Hoshaw, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, 301–435–1033, *hoshawb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts in Microbiology.

Date: October 17, 2007.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rossana Berti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3191, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group; Nursing Science: Children and Families Study Section.

Date: October 18, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Melinda Tinkle, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7770, Bethesda, MD 20892, (301) 594–6594, *tinklem@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: October 18–19, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Kathy Salaita, SCD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7770, Bethesda, MD 20892, 301–415–8504, *salaitak@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.

Date: October 18–19, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Helix, 1430 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261, *wiggsc@csr.nih.gov*.

Name of Committee: Hematology Integrated Review Group; Hemostasis and Thrombosis Study Section.

Date: October 18, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Jerrold Fried, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3213, MSC 7802, Bethesda, MD 20892, 301–435–2633, *friedje@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Brain Disorders and Clinical Neuroscience Fellowships.

Date: October 18–19, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037.

Contact Person: Geoffrey G. Schofield, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group; Community Influence on Health Behavior.

Date: October 18–19, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, 301–435–0681, *schwarte@csr.nih.gov*.

Name of Committee: Health of the Population Integrated Review Group;

Neurological, Aging and Musculoskeletal Epidemiology Study Section.
Date: October 18–19, 2007.
Time: 8:30 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Heidi B. Friedman, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.
Date: October 18–19, 2007.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: The Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, DC 20001.
Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, MSC 7759, Bethesda, MD 20892, 301–435–0912, *levinv@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetic Variation and Evolution Study Section.
Date: October 18–19, 2007.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301–435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Surgical Sciences, Biomedical Imaging and Bioengineering.
Date: October 18, 2007.
Time: 11 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Firrell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chronic Fatigue Syndrome, Fibromyalgia Syndrome, Temporomandibular Disorders.
Date: October 18, 2007.
Time: 12 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: J. Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, 301–435–1781, *th88q@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Hematology.
Date: October 19, 2007.
Time: 8:30 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chemical and Bioanalytical Sciences.
Date: October 19, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Denise Beusen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892, (301) 435–1267, *beusend@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 20, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4813 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Regulation, Learning and Ethology Study Section.
Date: October 8–9, 2007.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–2309, *pluded@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurodegeneration and Neurological Disorders.
Date: October 19, 2007.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Vilen A. Movsesyan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Sciences Small Business Activities.
Date: October 22, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Old Town Alexandria, 1767 King Street, Alexandria, VA 22314.
Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Behavioral Neuroscience.
Date: October 22–23, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Brian Hoshaw, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, 301–435–1033, *hoshawb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vascular Biology.

Date: October 22, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Bukhtiar H. Shah, DVM, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095J, MSC 7822, Bethesda, MD 20892, (301) 435–1233, *shahb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Prion Diseases.
Date: October 22, 2007.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rossana Berti, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3191, MSC 7846, Bethesda, MD 20892, 301–402–6411, *bertiros@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Beta Cell Function.
Date: October 22, 2007.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Syed M. Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892, (301) 435–1043, *amirs@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Tissue Engineering Study Section.
Date: October 22–23, 2007.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301 435–1743, *sipej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Ear.
Date: October 23–24, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Judith A. Finkelstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, 301–435–1249, *finkelsj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Cancer and Immunology.
Date: October 23, 2007.
Time: 1:30 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Chronic Conditions: Interventions and Outcomes.
Date: October 23, 2007.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Gabriel B. Fosu, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3215, MSC 7808, Bethesda, MD 20892, 301–435–3562, *fosug@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Cell Biology Member Applications.
Date: October 23–24, 2007.
Time: 8 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Jonathan Arias, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflicts: CIGP and HBPP.
Date: October 23, 2007.
Time: 12 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Patricia Greenwel, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflicts: GMPB.
Date: October 24, 2007.
Time: 10 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Patricia Greenwel, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Immune Mechanisms.
Date: October 24–25, 2007.
Time: 10 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Persons: Calbert A. Laing, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301–435–1221, *laingc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Neuronal Injury Disease.
Date: October 24, 2007.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Carol Hamelink, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040H, MSC 7850, Bethesda, MD 20892, (301) 451–1328, *hamelinc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Topics in Mosquito Biology.
Date: October 24, 2007.
Time: 1:30 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Tera Bounds, DVM, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 24, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4818 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314 (c) (4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Ms. Colleen Barros (Chair)
Dr. Norka Ruiz Bravo
Mr. Gahan Breithaupt
Dr. Michael Gottesman
Dr. Raynard Kington
Dr. Michael Marron
Dr. Lore Anne McNicol
Dr. Ellen Stover

For further information about the NIH Performance Review Board, please contact the Office of Human Resources, Workforce Relations Division, National Institutes of Health, Building 31, Room B3C07, Bethesda, Maryland 20892, telephone 301–402–9203 (not a toll-free number).

Dated: September 20, 2007.

Elias A. Zerhouni,

Director, National Institutes of Health.

[FR Doc. E7–19285 Filed 9–28–07; 8:45 am]

BILLING CODE 4140–01–P

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.

Proposed Project: The National Cross-Site Evaluation of Safe Schools/Healthy Students (SS/HS) Initiative Grants—In Use Without Approval

The Safe Schools/Healthy Students (SS/HS) Initiative is a collaborative grant program supported by three Federal departments—the U.S. Departments of Health and Human Services, Education, and Justice. The program is authorized under the Elementary and Secondary Education Act of 1965, as amended, and the Higher Education Act of 1965, Title IV, Part A, Subpart 2 (National Programs), Section 4121 (Federal Activities), and 42U.S.C., Section 290hh (Children and Violence).

This initiative, instituted by Congress following the murderous assaults at Columbine High School in Colorado, is designed to provide Local Educational Agencies (LEAs), including school districts and multidistrict regional consortia, with funding to simultaneously improve school safety, improve student access to mental health services, reduce violence and substance use, and strengthen both school relationships with the larger community and early childhood preparation for learning. Collectively, Congress expects these changes to be reflected in improved school climate.

Local Education Agencies (LEAs) serve as the primary applicants for SS/HS grants, in partnership with the local mental health system, the local law enforcement agency, and the local juvenile justice agency. Other community partners often involved in these grants include public and private social services agencies, businesses, civic organizations, the faith community, and private citizens. As a result of these partnerships, comprehensive plans are developed, implemented, evaluated, and sustained with the goals of promoting the healthy development of children and youth, fostering their resilience in the face of adversity, and preventing violence.

From FY–1999 through FY–2004, grants of $1 million to $3 million annually for 3 years were awarded to 190 LEAs, for a total of $916 million. In FY–2005, 40 new SS/HS grants were awarded; in FY–2006, an additional 19 grants were awarded; and in FY–2007, an additional 27 grants will be awarded. These grants are providing support for rural, tribal, suburban, and urban communities that include diverse racial and ethnic groups across the country.

In compliance with the Government Performance and Results Act (GPRA) of 1993, grantees are required to collect and report data that measure the results of the programs implemented with this grant. Specifically, grantees are required to collect and report information on the following GPRA indicators:

1. The percentage of SS/HS grant sites that experience a decrease in the number of violent incidents at schools.
2. The percentage of SS/HS grant sites that experience a decrease in substance use.
3. The percentage of SS/HS grant sites that improve school attendance.
4. The percentage of SS/HS grant sites that increase mental health services to students and families.

As authorized by 42 U.S.C. 290hh, item (f), SAMHSA has begun a national evaluation of the Safe School/Healthy Students (SS/HS) projects. In addition to GPRA measures, a Federal Evaluation Work Group of the national evaluation, comprising Federal officials representing the U.S. Departments of Education, and Health and Human Services, has determined that information is also required to address four overarching questions:

1. Do conditions and resources in the pre-grant environment facilitate or impede the implementation of the SS/HS Initiative at both the local education agency (LEA) and school levels?
2. Do SS/HS activities lead to the intended system changes (comprehensive policies, enhanced services, and improved coordination)?
3. Do system changes (near-term outcomes) associated with the SS/HS Initiative lead to improvements in long-term outcomes (reduction in substance use and violence, increased access to mental health services, and improvement in attendance and school climate)?
4. Overall, does the SS/HS Initiative meet the Federal Government's

expectations of achieving improvements in long-term outcomes (reduction in substance use and violence, increased access to mental health services, and improvement in attendance and school climate)?

The SS/HS National Evaluation Team (NET) proposes seven (7) data collection instruments for use with various audiences and at various times to provide systematic, rigorous answers to these questions. These instruments are listed below and discussed:

1. A Year 1 Site Visit protocol.
2. Project-Level Survey.
3. School-Level Survey.
4. Staff School Climate Survey.
5. Group Interview.
6. Project Director Interview.
7. Partnership Inventory.

With the exception of the Staff School Climate Survey, these instruments are currently in use without approval.

1. *Year 1 Site Visit Protocol.* The NET will conduct a Year 1 site visit to all SS/HS grantees in their first year of funding. The Year 1 Site Visit is designed to clarify and expand upon information presented in the grant application. The Site Visit Guide includes a set of questions for each of five general topical areas:

1. Planning for the SS/HS project.
2. Current status of project implementation.
3. Enhancing interagency services.
4. Update on the SS/HS school-community partnership structure, composition, and functioning including the current status of required partners (i.e., education, mental health, law enforcement, and juvenile justice).
5. Local evaluation status.

2. *Project-Level Survey* is to be administered annually to collect project-level information provided by the local project director, in consultation with the local evaluator and other key staff. This Web-based instrument will (1) collect data and project level assessments on technical assistance and near-term outcomes, and (2) collect data and project-level assessments on the penetration of SS/HS-related activities among the targeted population(s) and on the sustainability of the activities beyond the grant period. The survey contains 114 multiple-choice questions covering seven topical areas:

1. The relationship between the local education agency (LEA) and schools.
2. Technical assistance and training.
3. Comprehensive policies and interventions.
4. Evidence-based interventions.
5. Enhanced service integration.
6. Improved coordination.
7. Sustainability.

This survey will generate standardized cross-site measures for the required data.

3. *School-Level Survey*, also administered annually, is a Web-based survey completed by the SS/HS coordinator at each school, identified by the local project director. Its main purpose is to collect information describing system changes at the level of the individual schools included in the grant (e.g., involvement of the grant partners in activities and adoption of comprehensive safety policies at the school level).

This instrument contains 131 multiple-choice questions covering two main areas: (1) Organizational structure, characteristics and activities; and (2) the school's emphasis on and student participation in activities and programs. The School-Level Survey is designed specifically to provide an indicator as to whether and how project-level SS/HS-related policies are consistently diffused to the individual schools.

Prior to fielding Project-Level and School-Level Surveys, an e-mail and/or letter will be sent to project directors and SS/HS school coordinators to explain the purpose of the survey and provide information on how to complete the surveys. The e-mail and/or letter will provide names, e-mail addresses, telephone numbers, and fax numbers for the NET contact(s) to ensure respondents have appropriate contact information if they have questions or need to clarify survey-related questions. The e-mail and/or letter will also explain the options available for completing and returning the survey (Web-based, paper, and electronic).

Designated NET staff responsible for the two surveys will call or e-mail the respondents after distribution to ensure responses are received in a timely fashion. The NET also plans additional follow-up efforts to track any respondents who fail to submit their completed surveys after the initial follow-up.

4. *Staff School Climate Survey* is planned as an annual survey to be completed by all staff at each school participating in the SS/HS program. Administration and scoring will be conducted via an existing infrastructure that allows immediate access to the results at school, district, and aggregate levels for use by local and NET evaluators. The major purposes of this survey are:

1. Assess changes in school climate at the project level.
2. Identify the extent of variation in school climate among the target schools of each project.
3. Provide a basis for comparison of changes in the individual dimensions of school climate.
4. Provide added value to LEAs by helping them meet Federal legislative requirements for assessing staff perceptions of the incidence, prevalence, and attitudes related to substance use and violence in their schools.

Although GPRA measures monitor changes in individual outcomes among students, GPRA measures have been found to provide an incomplete metric of performance in terms of observed changes in overall "school climate." The SS/HS National Evaluation Team proposes to adopt the staff version of the California Healthy Kids Survey for this purpose. This instrument contains 43 multiple-choice questions that are used to obtain school staff perceptions of student behavior and attitudes, school programs and policies, and the overall school climate as they relate to student well-being and learning. The survey deals with such issues as truancy, safety, harassment, substance use, school connectedness, and learning supports. The instrument will track changes in school climate in schools targeted for program services under the SS/HS Initiative. In the absence of the Staff School Climate Survey, there would be no common, cross-site measure of performance across SS/HS initiative grantees. In practice, the Staff School Climate Survey will be administered electronically among approximately 106,000 local educational system employees. These employees will be encouraged to log onto a Web site during each year that their school benefits from the grant to answer questions concerning their perception of student behavior and safety at the school.

5. *Group Interview* will assess the status of the following:

1. Implementation of planned activities.
2. The status of the SS/HS school-community partnership.
3. Progress towards enhancing interagency services.
4. The status of the local evaluation.

Information will be gathered from a larger group of key informants than during the Year 1 site visits. In addition to the project director, key informants will include the local evaluator, required partners from each site, and representatives from other local organizations (e.g., alcohol and drug prevention or treatment agencies, after-school programs, early childhood programs). The NET will consult with Federal Project Officers and the local project directors in deciding which

partners/organizations will serve as key informants in the telephone interviews. The intent is to conduct these group interviews as a semistructured exchange among participants, guided by topics and issues raised by the NET moderator.

6. *Project Director Interview* of the local SS/HS site will follow the group interview. These structured interviews will be used primarily to assess each partner's contribution to the core elements of collaborative functioning. The project director interview will be conducted twice for each SS/HS grant, following the group telephone interviews of partnership members in the spring of Years 2 and 3 of the grant. The interviews will be structured around 11 topics, designed to gather information that will be used to:

1. Update program status.

2. Discuss strategies and activities the sites intend to implement.

3. Explore key partners' involvement in the project.

4. Investigate the role of the community partnership in the local project.

5. Secure information regarding the site's perspective on the impact of the SS/HS project on students, families, and the community.

6. Assess collaborative functioning.

This information will be used to refine project classifications, examine changes in the number and types of evidence-based practices being implemented, and document the number and type of new service structures or systems sites plan to implement through the grant.

A NET site liaison will conduct the Project Director interview by telephone. This interview contains a total of 31 questions, focusing on 10 core areas of collaborative functioning. Three subset questions focus on the contribution rating of the partnership, examples to support that rating, and the level of contribution of each required partner. A final question assesses the overall contribution of each of the partners to the SS/HS project.

7. *The Partnership Inventory* is a 32-item self-completion questionnaire e-mailed to designated representatives of local partnering organizations. Its purpose is to obtain a subjective assessment of perceptions of operating characteristics of the partnership process through Likert-type scaling. The first 16 items ask respondents to give their opinions about how the SS/HS partnership is functioning in their community. Items 17–26 focus on the contributions the respondent's organization has made to the collaborative functions related to SS/HS planning and implementation. The final six questions focus on interactions among the participating members of the collaboration, asking how often and how intensely the various organizations work together.

The annualized burden estimates are below:

Data collection instrument	Number of respondents	Responses per respondent	Average hours per response	Total annual burden (hours)
Site Visit Protocol	425	1	3	1,275
Project-Level Survey	85	1	0.75	64
School-Level Survey	2,500	1	0.75	1,875
Staff School Climate Survey	106,250	1	0.117	12,431
Group Interview	425	1	1.5	638
Project Director Interview	85	1	0.75	64
Partnership Inventory	340	1	0.25	85
Total	106,675			16,431

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 24, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–19303 Filed 9–28–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Compendium of Flood Map Changes

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability.

SUMMARY: The Federal Emergency Management Agency (FEMA) announces the availability of the Compendium of Flood Map Changes which provides a listing of changes made to the National Flood Insurance Program (NFIP) maps that became effective from January 1, 2005 through June 30, 2007. Future notices of changes to NFIP maps will be made available approximately every 6 months.

DATES: The five listings include changes to NFIP maps that became effective from January 1, 2005 through June 30, 2007. This includes the Compendium of Flood Map Changes from, January 1, 2005 through June 30, 2005; July 1, 2005 through December 31, 2005; January 1, 2006 through June 30, 2006; July 1, 2006 through December 30, 2006; and January 1, 2007 through June 30, 2007.

ADDRESSES: The Compendium of Flood Map Changes is available on the Internet at *www.fema.gov/plan/prevent/fhm/dl_comp.shtm*. You may also request a copy of the Compendium of Flood Map Changes on CD from the Map Service Center at *http://www.msc.fema.gov*, or (800) 358–9616.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: In accordance with section 1360(i) of the National Flood Insurance Reform Act of 1994, this notice is provided to inform interested parties of the availability of changes made by FEMA to NFIP maps. In the Compendium of Flood Map Changes, the two listings provided show communities affected by map changes made by letter and communities affected by physical map changes. For each Letter of Map Change, the first listing provides the map panel(s) affected, effective (determination) date of the change, case number, and determination type. For each physical map change, the Map Revision listing provides the map panel(s) affected and the effective date of the change. The listing also identifies: (1) Those panels on which the Special Flood Hazard Areas have not been changed or have

been changed only to incorporate the Letters of Map Change issued before the effective date; and (2) those panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community. Future notices of changes to NFIP maps will be made available approximately every 6 months.

Dated: September 13, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–19296 Filed 9–28–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

TSA's Migration to the Federal Docket Management System (FDMS)

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) announces the migration of data and a service disruption to our automated public dockets, now managed by the Department of Transportation's (DOT's) Docket Management System (DMS). Effective September 30, 2007, DOT's DMS electronic dockets will be replaced by the Federal Docket Management System (FDMS), a government-wide, electronic docket management system. In preparation for the data migration from DMS to FDMS, effective Thursday, September 27, 2007 at 5 p.m., DOT's DMS will no longer accept electronic comments/submissions. DOT will continue to accept, as well as process, faxed and other paper documents after the migration to FDMS.

On Monday, October 1, 2007, FDMS will begin accepting electronic submissions for all currently open DMS dockets, including open TSA dockets. Between October 1 and October 31, closed DMS dockets will still be accessible through the DMS Web site. By October 31, the full migration of all electronic dockets currently in DMS is expected to be completed.

FOR FURTHER INFORMATION CONTACT:

DOT: Renee V. Wright, Program Manager, Docket Operations, Office of Information Services, Office of the Assistant Secretary for Administration, Office of the Secretary, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone number: (202) 493–0402; fax number (202) 493–2251; e-mail address: *renee.wright@dot.gov*.

TSA: Marisa Mullen, Docket Liaison, Office of the Chief Counsel, TSA–2, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–2706.

SUPPLEMENTARY INFORMATION:

Background

TSA Docket Operations

TSA's official regulatory dockets are currently maintained in electronic form at DOT's DMS docket facilities at *http://www.dms.dot.gov*. Although the electronic form of TSA's dockets will be migrated to FDMS at *http://www.regulations.gov* on September 30, 2007, DOT's DMS will continue to process TSA's dockets and provide a physical facility and assistance to the public. The DOT Docket Operations facility, equipment, and staff is located on the West Building Ground Floor, Room W12–140 at 1200 New Jersey Avenue, SE., Washington, DC 20590. Hours for the facility are 9 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The Docket Operations telephone number is (202) 366–9826.

Federal Docket Management System (FDMS)

FDMS is a major component of the President's eRulemaking Initiative, which provides easy access to the public dockets maintained by Federal agencies, while streamlining and increasing the efficiency of internal procedures for agencies that did not already have electronic internet-accessible systems. FDMS is designed so that the public has a single point of access to the public dockets across the Federal Government. FDMS offers a standard, online procedure for Federal agencies to handle and process documents. The Initiative reduces costs by eliminating duplicative information systems and technical infrastructures.

FDMS is a full-featured electronic docket management system that gives Federal personnel and docket managers the ability to manage their rulemakings, adjudications, and other docketed program activities better. With this system, more than 30 Federal departments and agencies can post documents, supporting materials, and public comments/submissions on the Internet and the public will have a one-stop site to search, view, and download documents, as well as to submit comments or other documents to the agency dockets. Although all Federal agencies are required to use FDMS for their rulemaking dockets, FDMS will also handle and process public docket materials for other purposes. TSA will use it for all of the material currently docketed in DMS.

1. *Accessing and Using FDMS*. You may access FDMS on the Internet at *http://www.regulations.gov*. You may use FDMS to access available public docket materials online, as well as submit electronic comments or other documents to a particular docket available in FDMS.

2. *Searching FDMS*. The home screen in FDMS allows you to search and submit comments to open dockets. You may quickly narrow your search parameters for open dockets by agency or department by using the drop down selection lists. If you want to search all open TSA dockets, you should select "TRANSPORTATION SECURITY ADMINISTRATION" from the drop down list; or if you want all open DHS agency dockets, you should select "DEPARTMENT OF HOMELAND SECURITY—ALL". You may also search for an available public docket or for particular docket material. FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system, as follows:

- "Quick Search" to search using a full-text search engine.
- "Advanced Search," which displays various indexed fields, such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation. You may search each data field in the advanced search independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

3. *Making Submissions to FDMS*. TSA rulemaking documents, notices, and other documents published in the **Federal Register** will usually identify whether a docket has been established in FDMS. You may also search FDMS to determine if a docket has been established. You may submit comments/submissions to TSA dockets through FDMS, when a particular docket is open for public submissions, using any one of the following methods:

- *Electronic*. You may submit documents electronically through the online FDMS docket Web site at *http://www.regulations.gov*. This site is TSA's preferred method for receiving comments/submissions. Follow the online instructions for submissions.

• *Mail/Hand-Delivery.* You may submit documents by mail or hand-delivery to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. DOT will scan the submission and post it to FDMS.

• *Fax.* You may fax your submissions to 202–493–2251. DOT will scan the submission and post it to FDMS.

4. *Identification of Persons Making a Submission.* As with DMS, FDMS is an "anonymous access" system, which means TSA will not know your identity, e-mail address, or other contact information unless it is provided in the body of your submission. We recommend that you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows TSA to contact you in the event further information is needed or if there are questions. For example, if TSA cannot read your submission due to technical difficulties and you cannot be contacted, your submission may not be considered. Note that it is TSA's policy not to edit your submission; all documents received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Therefore, any identifying or contact information provided in the body of a submission will be included in the official public docket, and made available to the public.

5. *Confidential and Proprietary Information, and Sensitive Security Information (SSI).* Do not submit comments/submissions that include trade secrets, confidential commercial or financial information, or SSI to FDMS. Please make such submissions separately from other comments on a rulemaking. Submissions containing this type of information should be appropriately marked as containing such information and submitted by mail or hand delivery to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Upon receipt of such submissions, TSA will not place them in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold them in a separate file to which the public does not have access, and place a note in the public docket that TSA has received such materials from the commenter. If TSA receives a request to examine or copy this information, TSA will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's (DHS') FOIA regulation found in 6 CFR part 5.

6. *FDMS Privacy Issues.* As with DMS, anyone is able to search the electronic form of all submissions entered into any of our dockets in FDMS 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 the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov,* which will be available by October 1, 2007.

7. *FDMS vs. DMS List Serve/Email Notification Capabilities.* The capabilities of the DMS "list serve," called "email notifications" in FDMS, are different. A person may ask to be placed on an e-mail listing to be alerted automatically when activity occurs in specific regulations or dockets of information at the designated frequency (daily, weekly, monthly), without having to manually access the information online. You must re-register and set up your e-mail notification criteria in FDMS to receive these alerts.

FDMS will only allow users to sign up for specific regulations or specific dockets. Users will not be able to sign up for categories of dockets, such as all TSA's rulemakings. Users will also not be able to sign up for the subject areas currently allowed in DMS, for example, Federalism. Some features that were available in DMS will not work in FDMS. For example, the list serve in DMS can search behind the DOT firewall for data necessary to respond to a list serve request; FDMS cannot search behind the DOT firewall. Some reports and other information will be available on *http://DocketsInfo.dot.gov.*

Migration From DMS to FDMS

Phased Migration

Using a phased approach, all dockets currently contained in DMS will be moved to FDMS. All open TSA dockets (dockets to which TSA or the public may still submit documents or comments) will be available in FDMS on September 30, 2007. Due to the tremendous amount of data to be transferred from DOT's DMS to FDMS, the migration of the remaining dockets will occur over the month of October and is expected to be completed by October 31, 2007. During this time, DMS will remain online for searching, viewing, and downloading documents in these remaining DOT dockets.

Beginning October 1, 2007, any electronic filing to an open docket must go to the FDMS at *http://www.regulations.gov.* Until 12 noon on Friday, September 28, 2007, DMS will process all remaining September 27 electronic submissions. DMS will continue to accept, as well as process, faxed and paper documents before and after that date. Documents submitted until 12 noon on Friday, September 28, 2007, will be posted to DMS, and later transferred to FDMS with the rest of the docket. Any faxed or paper submissions received after that time, or not processed by 12 noon Friday, September 28, 2007, will be processed on Monday, October 1 in FDMS.

Docket ID Numbers

When DOT migrates TSA's DMS data to FDMS, docket numbers that were assigned in DMS (called legacy numbers), will remain the same in FDMS, and DMS will provide online public access to all existing, legacy dockets in DMS. For example, DMS Docket No. TSA–2002–11602–1 will remain the same in FDMS. The makeup of this docket number is as follows: the agency (TSA), followed by the year the docket was created (2002), then the sequence number automatically assigned upon creation (11602), and lastly the document sequence within this particular docket (1).

Any docket opened after September 27, 2007, will receive a docket ID in FDMS format. A TSA Docket ID in FDMS will be formatted as TSA–YYYY–00XX–00XX (Agency, Year, 4-digit yearly Docket sequence number per agency, 4-digit document sequence number within docket).

FDMS Submissions and Docket IDs

Currently in DMS, the public may submit comments and other documents, such as applications, petitions, exemptions, waivers, and other documents without knowing the actual docket number. In FDMS, you are not allowed to submit a document without a docket ID. To handle this, DOT Docket Operations will place documents without docket IDs into "shell dockets". A "shell docket" will be a "catch all" for submissions, such as applications, petitions, exemptions, and/or waivers, and data quality without a docket ID. Docket Operations staff will review the documents in the "shell docket" and file them appropriately. However, to assure that submissions are placed in the appropriate FDMS dockets, it is best that each submission include a docket ID.

FDMS Docket Types

FDMS dockets are divided into two types, "Rulemaking" and "Non-Rulemaking." To review dockets or make submissions, please use the "Search the Docket" tab. Select the department or agency and use the docket type "non-rulemaking" for all dockets other than rulemaking; from there you can select the appropriate sub-type, such as "Peer Review."

Additional Information on Use of FDMS

Additional details about FDMS, as well as detailed instructions and assistance for using the system, are available at *http://www.regulations.gov*. DOT will also have available online by October 1, 2007, a new site that will provide helpful information about the use of FDMS for DOT's DMS dockets. The site will also contain other helpful information, such as reports that were available on DMS but will not be available on FDMS. The site will be at *http://DocketsInfo.dot.gov*.

In addition, if you are interested in attending informational sessions regarding FDMS that DOT will be offering on October 3, 2007, (2–4 p.m. for the public) and October 4, 2007, (9–11 a.m. for the public) in the DOT Conference Center/Multi-Media Room, West Building, Room W11–130 at 1200 New Jersey Avenue, SE., Washington, DC. Sign up is available at *http://www.dms.dot.gov*. The DOT DMS Web site will contain a link where you will be referred to FDMS for docket submissions.

Issued in Arlington, Virginia, on September 25, 2007.

Mardi Ruth Thompson,

Deputy Chief Counsel (Regulations).

[FR Doc. E7–19277 Filed 9–28–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

U.S. Customs and Border Protection Trade Symposium 2007: "Partnerships—Meeting the Challenges of Securing and Facilitating Trade"

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Trade Symposium.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) will convene its annual trade symposium, featuring panel discussions involving department personnel, members of the trade community and other government agencies, on the agency's role in international trade initiatives and programs. Members of the international trade and transportation communities and other interested parties are encouraged to attend.

DATES: Wednesday, November 14, 2007 (opening remarks and panel discussions (1 p.m. to 5:30 p.m.) and open forum with senior management (6 p.m.–8 p.m.)). Thursday, November 15, 2007 (panel discussions—8:15 a.m.–5 p.m.).

ADDRESSES: The Trade Symposium will be held at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue, N.W., Washington, DC. Upon entry into the building, photo identification must be presented to the security guards.

FOR FURTHER INFORMATION CONTACT: The Office of International Affairs and Trade Relations at (202) 344–1440, or at *traderelations@dhs.gov*. To obtain the latest information on the Symposium and to register on-line, visit the CBP Web site at *http://www.cbp.gov*. Requests for special needs should be sent to the Office of International Affairs and Trade Relations at *traderelations@dhs.gov*.

SUPPLEMENTARY INFORMATION: The keynote speaker will be announced at a later date. The cost is $250.00 per person, and includes all Symposium activities. Interested parties are requested to register early, as space is limited. Registration will open to the public on or about October 1, 2007. All registrations must be made on-line at the CBP Web site (*http://www.cbp.gov*) and will be confirmed with payment by credit card only.

Due to the overwhelming interest to attend the Symposium, each company is requested to limit their company's registrations to three participants, in order to afford equal representation from all members of the international trade community. If a company exceeds the limitation, subsequent registrations will automatically be placed on the waiting list. Consideration will be given, in a first come, first served order, based on space availability.

Hotel accommodations have been reserved at two hotels in downtown Washington, DC. The JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC, has reserved a block of rooms for Wednesday through Thursday, November 14–15, 2007, at the rate of U.S. $279.00 per night. Reservations must be made directly with the hotel by October 15th at 1–800–228–9290 or 202–393–2000, referencing "CBP Trade Symposium," or on-line at *http://www.jwmarriottdc.com*.

The Hotel Washington, 515 15th Street, NW., Washington, DC has a block of rooms for Wednesday through Thursday, November 14–15, 2007, at the rate of U.S. $229.00 per night. Reservations must be made directly with the hotel by October 15th, at 1–800–424–9540 or 202–638–5900, referencing "CBP Trade Symposium," or on-line at *http://www.hotelwashington.com*, referencing group booking ID 40312.

Dated: September 26, 2007.

Michael C. Mullen,

Assistant Commissioner, Office of International Affairs and Trade Relations.

[FR Doc. E7–19299 Filed 9–28–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5123–N–14]

Notice of Proposed Information Collection for Public Comment: Section 8 Random Digit Dialing Fair Market Rent Telephone Survey

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 30, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Marie Lihn, Economic and Market Analysis Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8224, Washington, DC 20410; telephone (202) 402–5866; e-mail *marie_l._lihn@hud.gov*. This is not a toll-free number. Copies of the proposed forms and other available documents.

submitted to OMB may be obtained from Ms. Lihn.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed information collection package to OMB for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (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; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Section 8 Random Digit Dialing Fair Market Rent Telephone Survey.

OMB Control Number: 2528–0142.

Description of the need for the information and proposed use: This provides HUD with a relatively fast and accurate way to estimate and update Section 8 Fair Market Rents (FMRs) in areas where FMRs are believed to be incorrect and data from the American Community Survey is not available at the local level. Section 8(C) (1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Random Digit Dialing (RDD) telephone surveys have been used for many years to adjust FMRs. These surveys are based on a sampling procedure that uses computers to select statistically random samples of telephone numbers to locate certain types of rental housing units for surveying. HUD will conduct RDD surveys of up to 20 individual FMR areas in a year to test the accuracy of their FMRs.

Member of affected public: Individuals or households living in areas surveyed.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Area surveys	Number of phone calls made	Average minutes each	Minutes	Hours
Number who pick up phone but are screened out	38,204	1.70	64,996	1,083
Total interviewed (movers and stayers)	5,954	4.02	23,956	399
Annual Total	44,158		88,952	1,482

Status of the proposed information collection: Pending OMB approval.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and Section 8(C)(1) of the United States Housing Act of 1937.

Dated: September 19, 2007.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. E7–19286 Filed 9–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5100–FA–10]

Announcement of Funding Awards for Fiscal Year 2007; Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 2007 Historically Black Colleges and Universities Program. The purpose of this document is to announce the names, addresses and the amount awarded to the winners to be used to help Historically Black Colleges and Universities (HBCUs) expand their role and effectiveness in addressing community development needs in their localities, consistent with the purposes of Title I of the Housing and Development Act of 1974, as amended.

FOR FURTHER INFORMATION CONTACT: Susan Brunson, Office of University Partnerships, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8106, Washington, DC 20410, telephone (202) 402–3852. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on (800) 877–8339 or (202) 708–1455. (Telephone number, other than "800" TTY numbers are not toll free).

SUPPLEMENTARY INFORMATION: The Historically Black Colleges and Universities Program was approved by Congress under the Revised Continuing Appropriations Resolution, 2007 and is administered by the Office of University Partnerships under the Office of the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The HBCU Program provides funds for a wide range of CDBG-eligible activities including housing rehabilitation, property demolition or acquisition, public facilities, economic development, business entrepreneurship, and fair housing programs.

The Catalog Federal Domestic Assistance number for this program is 14.520.

On March 13, 2007 (72 FR 11468), HUD published a Notice of Funding Availability (NOFA) announcing the availability of approximately $8.9 million of which up to $1 million has been allocated for technical assistance,

therefore, $7.9 million, plus an additional $464,600 that was carried over was available this year for funding grants under this program. The maximum amount an applicant could be awarded this year is $600,000 for a three-year (36 months) grant performance period. Of this amount, approximately $1.8 million is available to HBCU applicants that had not been funded in the past and $6.5 million is available to fund HBCU applicants that had been previously funded. Fifty applications were received from HBCUs in response to this program NOFA; however, two were disqualified because they were determined not to be eligible applicants. All applications received were from applicants that been previously funded.

The Department reviewed, evaluated, and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), is publishing a list of grantees and amount of awards.

List of Awardees for Grant Assistance Under the FY 2007 Historically Black Colleges and Universities Program Funding Competition, by Institution, Address, and Grant Amount

Region III

1. Coppin State University, Mr. James Roberts, Coppin State University, 2500 West North Avenue, Baltimore, MD 21216. Grant: $599,522.

Region IV

2. LeMoyne-Owens College, Mr. Jeffrey Higgs, LeMoyne-Owens College, 802 Walker Avenue, Suite 5, Memphis, TN 38126. Grant: $600,000.

3. Winston-Salem State University, Ms. Valerie Howard, Winston-Salem State University, 601 South Martin Luther King Jr. Drive, Winston-Salem, NC 27110. Grant: $600,000.

4. Clinton Junior College, Mr. Mickey Beckham, Clinton Junior College, 1029 Crawford Road, Rock Hill, SC 29730. Grant: $600,000.

5. Benedict College, Dr. David Swinton, Benedict College, 1600 Harden Street, Columbia, SC 29204. Grant: $600,000.

6. South Carolina State University, Ms. Merlin Jackson, South Carolina State University, 300 College Street, NE, Orangeburg, SC 29117. Grant: $600,000.

7. Tennessee State University, Ms. Ginger Hausser Pepper, Tennessee State University, 3500 John A. Merritt Blvd., Nashville, TN 37209. Grant: $584,119.

8. Tuskegee University. Mrs. Danette Hall, Tuskegee University, Carnegie Hall 4th Floor, Tuskegee, AL 36088. Grant: $600,000.

9. Johnson C. Smith, Dr. Diane Bowles, Johnson C. Smith, 100 Beatties Ford Road, Charlotte, NC 28216. Grant: $600,000.

10. Hinds Community College-Utica Campus, Mr. Bobby Pamplin, Hinds Community College-Utica Campus, 34175 Hwy 18 West, Utica, MS 39175. Grant: $592,382.

11. Rust College, Dr. David Beckley, Rust College, 150 Rust Avenue, Holly Springs, MS 38635. Grant: $598,577.

Region VI

12. Dillard University, Mr. Theodore Callier, Dillard University, 2601 Gentilly Blvd. New Orleans, LA 70112. Grant: $600,000.

13. Southern University at Shreveport, Mrs. Janice Sneed, Southern University at Shreveport, 3050 Martin Luther King Jr. Drive, Shreveport, LA 71107. Grant: $600,000.

Region VI

14. Texas Southern University, Ms. Ella Nunn, Texas Southern University, 3100 Cleburne Avenue, Houston, TX 77004. Grant: $600,000.

Dated: September 13, 2007.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. E7–19288 Filed 9–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–13]

Privacy Act; Proposed New System of Records, Correspondence Tracking System (CTS)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Establish a new Privacy Act System of Records.

SUMMARY: HUD proposes to establish a new records system to add to its inventory of systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed new system of records is the Correspondence Tracking System, (CTS), HUD/ADM–09, which will replace HUD's legacy Secretary's Correspondence Control System, also known as the "Automated Correspondence On-line Response Network" (ACORN) system. The Department will use the new records system to monitor the status of both correspondence internal to the Department and that received from external sources. It will also be used by the Department to execute, prioritize, and expedite the correspondence workflow more effectively.

DATES: *Effective Date:* This action shall be effective without further notice on October 31, 2007 unless comments are received during or before this period that would result in a contrary determination.

Comments Due Date: October 31, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development. 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, 451 Seventh Street, SW., Room 4178, Washington, DC 20410, telephone number (202) 708–2374, or the System Owner, Executive Secretary, Office of the Executive Secretariat, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10139, Washington, DC 20410, telephone number (202) 708–3054. (These are not toll-free numbers.) A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new system of records, and require published notice of the existence and character of the system of records.

The new system report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records About Individuals," July 25, 1993 (58 FR 36075, July 2, 1993).

Authority: 5 U.S.C. 552a.

Dated: September 21, 2007.

Walter S. Harris,

Deputy Chief Information Officer for Strategic Planning and Policy.

HUD/ADM–09

SYSTEM NAME:

Correspondence Tracking System (CTS).

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who correspond with the Secretary, Deputy Secretary, Assistant Secretaries, or Field Office officials, (b) Individuals whose correspondence has been referred by the White House, other federal agencies, or Members of Congress to the Secretary, Deputy Secretary, Assistant Secretaries, or Field Office officials for response, (c) Individuals who correspond with departmental staff, and (d) departmental staff creating inter-office correspondence and correspondence for signature and dispatch outside of the agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence identification (Correspondent's name, address, state, district, organization, title, control number, return address, date of letter, subject, description); status of response within the Department (office assigned, date due, current disposition); may include original correspondence, Department's response, referral letters, name and identification of person referring the correspondence, and copies of any enclosures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, Pub. L. 89–174.

PURPOSE:

To accurately report and monitor the status of correspondence both internal and external to the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, other routine uses are: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On CTS hardware storage, on backup computer drives, and, in some cases, file folders.

RETRIEVABILITY:

State, district, control number, name of correspondent, name of person referring correspondence, date of letter, subject of letter, office assigned, date due, current disposition, address, telephone number, e-mail address.

SAFEGUARDS:

Computer records are maintained in a secure area with access restricted to authorized personnel; manual files are kept in folders in lockable file cabinets and accessed only by authorized personnel. Security and hardware storage of backup materials (i.e. disk, tapes, etc.) are secured in accordance with HUD-wide guidance for handling and securing HUD data systems and the Electronic Data System's (EDS) standard procedure guide for maintaining data and system security.

RETENTION AND DISPOSAL:

All computerized information is maintained on system hardware in accordance with CTS retention schedule, then is archived and stored in a secure location or destroyed or turned over to the National Archives and Records Administration based on the agency's electronic records management schedules. All manual files are maintained for 2 years and then are retained/disposed of in accordance with HUD Handbook 2225.6, HUD Records Schedules, Schedule 62.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, Office of the Executive Secretariat, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10139, Washington, DC 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Departmental Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4178, Washington, DC 20410, in accordance with 24 CFR part 16.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Departmental Privacy Act Officer at the above location.

CONTESTING RECORD PROCEDURES:

Procedures for amendment or correction of records, and procedures for applicants who want to appeal initial agency determinations appear in 24 CFR part 16. If additional information or assistance is needed contact:

(i) In relation to contesting the contents of records, the Departmental Privacy Act Officer at HUD, 451 Seventh Street, SW., Room 4178, Washington, DC 20410; and,

(ii) In relation to appeals of initial denials, the Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject, referral source, departmental employees involved in processing the correspondence.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

"None".

[FR Doc. E7–19287 Filed 9–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–12]

Privacy Act of 1974; New System of Records, Integrated Automated Travel System (IATS, H–18), HUD/CFO–04

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Establish a New Privacy Act System of Records.

SUMMARY: HUD proposes to establish a new record system to add to its inventory of systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The purpose of the proposed new system of records, identified as HUD/CFO–03, entitled Integrated Automated Travel System (IATS, H–18), is to produce tax reports and W2s for relocation travel disbursements.

DATES: *Effective Date:* This action will be effective without further notice on October 31, 2007 unless comments are received that would result in a contrary determination.

Comments Due Date: October 31, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this new system of records to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each

communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Departmental Privacy Act Officer, telephone number (202) 402–8036 or Gail B. Dise, Assistant Chief Financial Officer for Systems, telephone number (202) 402–3749. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new record system, and require published notice of the existence and characters of the system of records.

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted to the Committee on Homeland Security and Governmental Affairs of the United States Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, Federal Agency Responsibilities for Maintaining Records about Individuals, dated June 25, 1993 (58 FR 36075, July 2, 1993).

Authority: 5 U.S.C. 552a.

Dated: September 21, 2007.

Walter S. Harris,

Deputy Chief Information Officer for Strategic Planning and Policy.

HUD/CFO–04

NAME:

Integrated Automated Travel System (IATS, H–18).

SYSTEM LOCATION:

CFO Accounting Center in Fort Worth, Texas.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Disbursements. Travel Authorizations (origin and destination of relocation, authorized entitlements, dependent's names and dates of birth), payments made to individual (amount approved, taxes deducted, amount paid to employee, date of payment).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 113 of the Budget and Accounting Act of 1950 31 U.S.C. 66a. (Pub. L. 81–784).

PURPOSE (S):

The purpose of the system of records is to record relocation disbursements in order to compute and record taxes and W2s.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, other routine uses are as follows:

The system is used to record all disbursements associated with an employee's relocation, for reporting purposes, to generate quarterly 941's and annual W-2's to IRS and the Social Security Administration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: IATS IS A STAND ALONE SYSTEM.

Electronic files are stored in the IATS database which is located on the Windows server in FT Worth, Texas. Hard copy files are stored in secure cabinets in the file room under lock and key within the Travel and Relocation Branch Office in Fort Worth, Texas.

STORAGE:

Each individual relocatee has a folder and there are hard copies of these documents in the folders which are stored in the secure cabinets in the file room under lock and key within the Travel and Relocation Branch Office in Fort Worth, Texas.

RETRIEVABILITY:

Name, Social Security Number, Birth date, dependents' names and dates of Birth, marital status, spouse name, home address, home telephone, and personal email address.

SAFEGUARDS EMPLOYED INCLUDE:

Background screening, limited authorizations and access, with access limited to authorized personnel and technical restraints employed with regard to accessing the records; access to automated systems by authorized users by passwords.

RETENTION AND DISPOSAL:

Are in accordance with GSA schedules of retention and disposal.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Financial Office for Systems, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer, 451 Seventh Street, SW., Room 4178, Washington, DC 20410, in accordance with the procedures in 24 CFR part 16.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appears in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development (HUD), 451 Seventh Street, SW., Room 4178, Washington, DC 20410.

CONTESTING RECORD PROCEDURES:

The procedures for requesting amendment or correction of records appear in 24 CFR part 16. If additional information is needed, contact:

(i) In relation to contesting contents of records, the Privacy Act Officer at HUD, 451 Seventh Street, SW., Room 4178, Washington, DC 20410; and

(ii) In relation to appeals of initial denials, HUD, Departmental Privacy Appeals Officer, Office of General Counsel, 451 Seventh Street, SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; financial institutions, private corporations or firms doing business with HUD; Federal agencies; HUD personnel.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–19289 Filed 9–28–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–966–1420–BJ–TRST; Group No. 178, Wisconsin]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Wisconsin.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

Township 48 North, Range 4 West, of the Fourth Principal Meridian, Wisconsin.

The plat of survey represents the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the survey of the subdivision of section 25 and was approved September 12, 2007. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information. If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: September 12, 2007.

Jerry L. Wahl,

Chief Cadastral Surveyor.

[FR Doc. E7–19302 Filed 9–28–07; 8:45 am]

BILLING CODE 4310–GJ–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 15, 2007.

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 16, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ARIZONA

Coconino County

Hart Store, 100 Brewer Rd., Sedona, 07001099

COLORADO

Larimer County

Willard, Beatrice, Alpine Tundra Research Plots, US 34 at Rock Cut and Forest Canyon, Estes Park, 07001101

CONNECTICUT

Tolland County

Pinney, Eleazar, House, 82–84 Pinney St., Ellington, 07001100

DISTRICT OF COLUMBIA

District of Columbia

Martin Luther King Memorial Library, 901 G St., NW., Washington, 07001102

MASSACHUSETTS

Dukes County

West Chop Club Historic District, Iroquois Ave., Tisbury, 07001104

Franklin County

Heath Center Historic District, E. & W. Main Sts., 12 & 23 Avery Brook, 8 Taylor Brook, 1–51 Bray, Colrain Stage, 3–16 Ledges & 15–48 South Rds., Heath, 07001103

MISSOURI

St. Charles County

St. Mary's Institute of O'Fallon, 204 N. Main St., O'Fallon, 07001106

St. Louis County

Glen Echo Historic District, 3401 Lucas-Hunt Rd., 7202–48 Henderson Ave., 7200–71 St. Andrews Pl., Normandy and Glen Echo Park, 07001105

NEW JERSEY

Union County

Burial Ground of the Presbyterian Church in the West Fields of Elizabethtown, W. side of Mountain Ave., N. of Drift Way opposite 140 Mountain Ave., Westfield, 07001108

NEW MEXICO

San Miguel County

Las Vegas Municipal Building, (New Deal in New Mexico MPS), 727 Grand Ave., Las Vegas, 07001107

SOUTH CAROLINA

Anderson County

Kennedy Street School, 816 Kennedy St., Anderson, 07001111

SOUTH CAROLINA

Charleston County

Progressive Club, The, 3377 River Rd., Johns Island, 07001109

Orangeburg County

Great Branch Teacherage, 2890 Neeses Hwy., Orangeburg, 07001112

Richland County

Pacific Community Association Building, (Textile Mills designed by W.B. Smith Whaley MPS) 701 Whaley St., 214 Wayne St., Columbia, 07001110

A request for REMOVAL has been made for the following resource:

NEW MEXICO

Bernalillo County

Horn Oil Co. and Lodge 1720 Central Ave., Albuquerque, 97001591

[FR Doc. E7–19241 Filed 9–28–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0024 and 1029–0113

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection requests for 30 CFR 732—Procedures and Criteria for Approval or Disapproval of State Program Submissions; and 30 CFR 874—General Reclamation Requirements, have been forwarded to the Office of Management and Budget (OMB) for review and approval. The information collection requests describe the nature of the information collections and their expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by October 31, 2007, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–6566 or via e-mail to *OIRA_Docket@omb.eop.gov*. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov*. Please refer to OMB control numbers 1029–0024 and 1029–0113 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request contact John Trelease at (202) 208–2783 or on-line at *jtrelease@osmre.gov*.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which

implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted two requests to OMB to renew its approval for the collections of information found at 30 CFR parts 732 and 874. OSM is requesting a 3-year term of approval for these information collection activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for these collections of information are 1029–0024 for part 732 and 1029–0013 for part 874, and may be found in OSM's regulations at 732.10 and 874.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collections of information for parts 732 and 874 was published on June 4, 2007 (72 FR 30830). No comments were received from that notice. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR Part 732.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: Once and annually.

Description of Respondents: 24 State regulatory authorities.

Total Annual Responses: 45.

Total Annual Burden Hours: 8,549.

Title: General Reclamation Requirements, 30 CFR Part 874.

OMB Control Number: 1029–0113.

Summary: Part 874 establishes land and water eligibility requirements, reclamation objectives and priorities and reclamation contractor responsibility. 30 CFR 874.17 requires consultation between the Abandoned Mine Land (AML) agency and the appropriate Title V regulatory authority on the likelihood of removing the coal under a Title V permit and concurrences between the AML agency and the appropriate Title V regulatory authority on the AML project boundary and the amount of coal that would be extracted under the AML reclamation project.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 23 State regulatory authorities and Indian tribes.

Total Annual Responses: 23.

Total Annual Burden Hours: 1,610.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

Dated: September 24, 2007.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 07–4824 Filed 9–28–07; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

United States Section: Notice of Availability of a Draft Environmental Assessment and Finding of No Significant Impact for Flood Control Improvements to the Rio Grande Canalization Project Levee System in El Paso County, Texas and Doña Ana and Sierra Counties, NM

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508), and the United States Section, International Boundary and Water Commission's (USIBWC) Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the USIBWC hereby gives notice of availability of the Draft Environmental Assessment and FONSI for Flood Control Improvements to the Rio Grande Canalization Project (RGCP) Levee System, located in El Paso County, Texas and Doña Ana and Sierra Counties, New Mexico.

FOR FURTHER INFORMATION CONTACT: Daniel Borunda, Environmental Protection Specialist, Environmental Management Division, United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4767; e-mail: *danielborunda@ibwc.state.gov.*

DATES: Comments on the Draft EA and Draft FONSI will be accepted through October 30, 2007. This date has been determined by the expected release of the **Federal Register** Notice on October 1, 2007.

SUPPLEMENTARY INFORMATION: The USIBWC is preparing an Environmental Assessment (EA) for a proposed action to raise approximately 52 miles of levee system within the RGCP. The area under consideration includes approximately 13 miles within El Paso County, Texas and 38 miles within Doña Ana and Sierra Counties in New Mexico. Other flood control improvements such as a floodwall may be required in the Canutillo area in order to fully contain the 100-year flood flow.

The RGCP levee system is one of the priority areas identified and targeted for flood control improvements. The need for improvements to the levee system was identified in the *2004 Final Environmental Impact Statement, River Management Alternatives for the Rio Grande Canalization Project.* USIBWC in coordination with the United States Army Corps of Engineers, Albuquerque District evaluated the RGCP flood containment capacity in 1996 and subsequently in 2005. These studies identified a number of potential levee deficiencies along the RGCP on the basis of hydraulic modeling of the 100-year storm. The modeling indicated that an increase in levee height would be required to meet design criteria for flood protection. Levee height increases range from 1 to 4 feet at various locations for a total of 52 levee miles. Increases greater than 2 feet may require expansion of the levee footprint by lateral extension of the structure to meet design criteria. If required, levee footprint increases may occur within the USIBWC right-of-way and extend either on the landside or riverside of the levee depending on existing constraints.

Federal Emergency Management Agency (FEMA) certification of RGCP levees in El Paso County, Texas and Doña Ana and Sierra Counties, New Mexico cannot occur until the existing levees are rehabilitated to meet certification standards. Recent preliminary Digital Flood Insurance Rate Maps released by FEMA indicate increased newly designated Special Flood Hazard areas along the Rio Grande. The proposed action will

enable the USIBWC to partially certify specific levee segments along the RGCP that meet the 3-foot freeboard design criterion for flood protection.

Summary of Findings: Pursuant to NEPA guidance (40 Code of Federal Regulations 1500–1508), The President's Council on Environmental Quality issued regulations for NEPA implementation which included provisions for both the content and procedural aspects of the required EA. The EA assesses potential environmental impacts of the Proposed Action and the No Action Alternative. A draft FONSI was issued for the Proposed Action, based on a review of the facts and analyses contained in the EA. An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within 30 days from the date of this Notice.

Availability: Copies of the Draft EA and FONSI may be obtained by request from Mr. Daniel Borunda, 4171 North Mesa, Suite C–100, El Paso, Texas 79902, e-mail: *danielborunda@ibwc.state.gov*. Electronic copies may also be obtained from the USIBWC Home Page at *http://www.ibwc.state.gov*. Written comments will be accepted for 30 days following the date of this Notice.

Dated: September 24, 2007.

Susan Daniel,

General Counsel.

[FR Doc. E7–19209 Filed 9–28–07; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–426 and 731–TA–984 and 985 (Review)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on sulfanilic acid from Hungary and the antidumping duty orders on sulfanilic acid from Hungary and Portugal.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sulfanilic acid from Hungary and the antidumping duty orders on sulfanilic acid from Hungary and Portugal would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is November 20, 2007. Comments on the adequacy of responses may be filed with the Commission by December 14, 2007. 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:* October 1, 2007.

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 reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On November 8, 2002, the Department of Commerce issued a countervailing duty order on imports of sulfanilic acid from Hungary and antidumping duty orders on imports of sulfanilic acid from Hungary and Portugal (67 FR 68100–68102). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Hungary and Portugal.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined a single *Domestic Like Product* consisting of all sulfanilic acid corresponding to the scope, including technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found a single *Domestic Industry* consisting of all domestic producers of sulfanilic acid.

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is November 8, 2002.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the 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 the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15,

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–174, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 14, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided In Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the factors that the Commission is directed to consider with regard to the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the *Domestic*

Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country*, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: September 24, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–19065 Filed 9–28–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Notice of Proposed Procedural Guidelines for the Development and Maintenance of the List of Goods From Countries Produced by Child Labor or Forced Labor Pursuant to the Trafficking Victims Protection Reauthorization Act of 2005

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice and request for comments regarding proposed procedural guidelines for the development and maintenance of a list of goods from countries produced by child labor or forced labor in violation of international standards.

SUMMARY: This notice sets forth proposed procedural guidelines pertaining to the development and maintenance of a list of goods from foreign countries produced by child labor or forced labor in violation of international standards ("the List"), pursuant to the Trafficking Victims Protection Reauthorization Act of 2005. The guidelines provide information as to the submission of information, review, and reporting process used by the U.S. Department of Labor's ("DOL") Office of Child Labor, Forced Labor, and Human Trafficking ("the Office") in maintaining and revising the List. DOL invites all interested persons to submit written comments on the proposed guidelines.

DATES: Comments regarding the proposed procedural guidelines must be received by the Office on or before October 31, 2007.

ADDRESSES: Comments, identified as "Docket No. DOL–2007–0004," may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.
- *Facsimile (fax):* ILAB/Office of Child Labor, Forced Labor, and Human Trafficking at 202–693–4830.
- *Mail, Express Delivery, Hand Delivery, and Messenger Service:* Submit an original and three copies of written comments and attachments to Charita Castro or Rachel Rigby at U.S. Department of Labor, ILAB/Office of Child Labor, Forced Labor, and Human Trafficking, 200 Constitution Ave., NW., Room S–5317, Washington, DC 20210. If possible, submitters should provide written comments on a computer disc.

All submissions received must include the agency name and docket number. They should clearly identify the party filing the submission and should be signed and dated. Note that security-related problems may result in significant delays in receiving comments and other written materials by mail.

Docket Access: All comments received will be made available to the public on the Federal eRulemaking Portal: *http://www.regulations.gov* and at the U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5317, Washington, DC 20210. Because comments sent to the docket are available for public inspection, the

Office cautions commenters against including in their comments personal or confidential information such as social security numbers and birth dates. The Office will not respond directly to comments or return them to the submitter.

FOR FURTHER INFORMATION CONTACT: Charita Castro or Rachel Rigby, Office of Child Labor, Forced Labor, and Human Trafficking, Bureau of International Labor Affairs, U.S. Department of Labor at (202) 693–4843; fax (202) 693–4830.

SUPPLEMENTARY INFORMATION: Section 105(b)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 ("TVPRA"), Public Law 109–164 (2006), directed the Secretary of Labor, acting through the Bureau of International Labor Affairs ("ILAB") of the U.S. Department of Labor ("DOL"), to "carry out additional activities to monitor and combat forced labor and child labor in foreign countries." Section 105(b)(2) lists these activities specifically as those to:

(A) Monitor the use of forced labor and child labor in violation of international standards;

(B) Provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in trafficking in persons report required by Section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b));

(C) Develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards;

(D) Work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph; and

(E) Consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

See 22 U.S.C. 7112(b).

The Office of Child Labor, Forced Labor, and Human Trafficking within ILAB has been designated to carry out the DOL mandates in the TVPRA. As part of these efforts, and in furtherance of ILAB's broader mission of working to create a more stable, secure, and prosperous international economic system in which the basic rights of workers and children are respected and protected, the Office conducts research on child labor and forced labor worldwide, consulting such sources as DOL's *Findings on the Worst Forms of Child Labor*; the Department of State's annual *Country Reports on Human Rights Practices* and *Trafficking in Persons Reports*; other reports by governmental, non-governmental, and international organizations as well as academic and research institutions; and other sources. These procedural guidelines will provide a framework for ILAB's implementation of the TVPRA mandate, by establishing procedures for the submission of information, agency review, and reporting process in developing and maintaining the List.

Once these procedural guidelines are finalized, the Office will publish a request for information concerning goods produced by forced labor or child labor in violation of international standards. The Office may also conduct hearings to assist in the development of the list of goods produced by forced labor or child labor in violation of international standards ("the List"). Following the information-gathering phase, the Office will evaluate the information obtained according to the process outlined in its final procedural guidelines. Goods and countries that meet these criteria outlined in the procedural guidelines will be placed on a List which will be developed in consultation with appropriate U.S. government agencies. The List will be published in the **Federal Register** and on the DOL Web site.

DOL will continue to maintain and update the List over time, through its own research, interagency consultations, and through public submissions of information. Procedures for the ongoing maintenance of the List are described below, and key terms used in these Guidelines are defined below.

Proposed Procedural Guidelines

A. Sources of Information and Factors Considered for the Development of the List

The Office will make use of all relevant information, whether gathered through research, public submissions of information, a public hearing, interagency consultations or other means, in developing the List. In the interest of transparency, the Office will not rely on confidential or classified information in developing the List. The Office may request that any such information brought to its attention be declassified. In evaluating information, the Office will consider whether the situations described meet the definitions of child labor, forced labor, and related terms, as defined in these guidelines. The Office will also consider and weigh several factors, including:

1. *Nature of information.* Whether the information about child labor or forced labor gathered from research, public submissions, hearing testimony, or other sources is relevant and probative, and meets the definitions of child labor or forced labor.

2. *Date of information.* Whether the information about child labor or forced labor in the production of the good(s) is no more than 7 years old at the time of receipt. More current information will generally be given priority, and information older than 7 years will generally not be considered.

3. *Source of information.* Whether the information, whether from primary or secondary sources, is from a source whose methodology, prior publications, degree of familiarity and experience with international labor standards, and/or reputation for accuracy and objectivity, warrants a determination that it is relevant and probative.

4. *Extent of corroboration.* The extent to which the information about the use of child labor or forced labor in the production of a good(s) is corroborated by other sources.

5. *Significant incidence of child labor or forced labor.* Whether the information about the use of child labor or forced labor in the production of a good(s) warrants a determination that the incidence of such practices is significant and/or prevalent in the country in question. Information that relates only to a single company or facility; or that indicates an isolated incident of child or forced labor, will ordinarily not weigh in favor of a finding that a good is produced in violation of international standards. Information that demonstrates a significant incidence of forced labor or child labor in the production of a particular good(s), although not necessarily representing a pattern of practice in the industry as a whole, will ordinarily weigh in favor of a finding that a good is produced in violation of international standards.

In determining which goods are to be placed on the List, the Office will as appropriate take into consideration the stages in the chain of a good's production. Whether a good is placed on the List may depend on which stage of production used child labor or forced labor. For example, if child labor or forced labor was only used in the extraction, harvesting, assembly, or production of raw materials or

component articles, and these are subsequently used under non-violative conditions in the manufacture or processing of a final good, only the raw materials/component articles and the country/ies where they were extracted, harvested, assembled, or produced, as appropriate, may be placed on the List. If child labor or forced labor was used in both the production or extraction of raw materials/component articles and the manufacture or processing of a final good, then both the raw materials/component articles and the final good, and the country/ies in which such labor was used, may be placed on the List. This is to ensure a direct correspondence between the goods and countries which appear on the List, and the use of child labor or forced labor.

Goods and countries that meet the criteria outlined in the procedural guidelines will be placed on a List, which will be developed in consultation with appropriate U.S. government agencies. Before publication of the List, DOL will inform the relevant foreign governments of their presence on the List and request their response. DOL will review these responses and make a determination as to their relevance. Government, industry, or third party efforts to combat child labor or forced labor will be taken into consideration, although they are not necessarily sufficient, in and of themselves, to prevent a good and country from being listed. The List, along with a listing of the sources used to identify the goods and countries on it, will be published in the **Federal Register** and on the DOL Web site. The published List will represent DOL's conclusions based on all relevant information available at the time of publication.

For each good and country ("entry"), the List will indicate whether the good is made using child labor, forced labor, or both. As the List will continue to be maintained and updated, the List will indicate the date when each entry was included. The List will not include any company or individual name. DOL's published listing of source material used in identifying goods and countries on the List will be redacted to remove any company or individual name.

B. Maintenance of the List

1. Following publication of the List, the Office will periodically review and revise the List, as appropriate. The Office conducts ongoing research and monitoring of child labor and forced labor, and if relevant information is obtained through such research, the Office may add an entry to, or remove an entry from, the List using the process described in section A above. The Office may also update the list on the basis of public information submissions, as detailed below.

2. Any party may file an information submission with the Office regarding the addition, maintenance, or removal of an entry from the List.

3. The Office will determine whether to accept a submission of information for review. The Office may communicate with the submitter during this period regarding any matter relating to the submission. In general, the Office will accept a submission of information if it provides relevant and probative information and if a review of the submission would not be inconsistent with applicable laws or regulations.

4. The Office may decline to accept a submission for review if it determines that: the submission does not identify clearly the party filing the submission or is not signed and dated; the submission contains confidential or classified information; the submission does not provide relevant or probative information; or, the information is not within the scope of the TVPRA and/or does not address child labor or forced labor as defined herein. Whether or not the Office accepts a submission for review, all submissions received will be made available to the public on the DOL Web site, consistent with applicable laws or regulations.

5. If the Office accepts a submission of information, the Office will conduct such further examination of other available information relating to the good and country as necessary and appropriate to assist the Office in making a determination concerning the addition, maintenance, or removal of the good from the List. The Office will undertake consultations with relevant U.S. government agencies and may hold a public hearing(s) for the purpose of receiving relevant information from interested persons.

6. In order for an entry to be removed from the List, any person filing information regarding the entry must provide information that demonstrates that there is no significant incidence of child labor or forced labor in the production of the particular good in the country in question. Government, industry, or third party efforts to combat child labor or forced labor will be taken into consideration, although they are not necessarily sufficient, in and of themselves, to warrant removal of a good and country from the List.

7. Where the Office has made a determination concerning the addition, maintenance, or removal of the entry from the List, and where otherwise appropriate, the Office will publish a revised List in the **Federal Register** and on the DOL Web site.

C. Key Terms Used in the Guidelines

"Child Labor"—"Child labor" means all work performed by a person below the age of 15. It also includes all work performed by a person below the age of 18 in the following practices: (A) All forms of slavery or practices similar to slavery, such as the sale or trafficking of children, debt bondage and serfdom, or forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict; (B) the use, procuring, or offering of a child for prostitution, for the production of pornography or for pornographic purposes; (C) the use, procuring, or offering of a child for illicit activities in particular for the production and trafficking of drugs; and (D) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children. The work referred to in subparagraph (D) shall be determined by the laws, regulations, or competent authority of the country involved. This definition shall not apply to work specifically authorized by national laws, including work done by children and young persons in schools for general, vocational or technical education or in other training institutions, where such work is carried out in accordance with conditions prescribed by the competent authority and does not prejudice children's attendance in school or their capacity to benefit from the instruction received.

"Countries"—"Countries" means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands.

"Forced Labor"—"Forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. "Forced labor" includes work provided or obtained by force, fraud, or coercion, including (1) By threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process. For purposes of this definition, forced labor does not include work specifically authorized by national laws where such work is carried out in

accordance with conditions prescribed by the competent authority, including (a) any work or service required by compulsory military service laws for work of a purely military character; (b) work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; (c) work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority; and (d) work or service required in cases of emergency, such as in the event of war or of a calamity or threatened calamity, fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population.

"Goods"—"Goods" means goods, wares, articles, materials, items, supplies, and merchandise.

"Indentured Labor"—"Indentured labor" means all labor undertaken pursuant to a contract entered into by an employee the enforcement of which can be accompanied by process or penalties.

"International Standards"—"International standards" means generally accepted international standards relating to forced labor and child labor, such as international conventions and treaties. These Guidelines employ definitions of "child labor" and "forced labor" derived from international standards.

"Produced"—"Produced" means mined, extracted, harvested, farmed, produced, created, and manufactured.

Signed at Washington, DC, this 25th day of September 2007.

Charlotte M. Ponticelli,

Deputy Undersecretary for International Affairs.

[FR Doc. E7–19310 Filed 9–28–07; 8:45 am]

BILLING CODE 4510–28–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–076)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the inventions described and claimed in U.S. Patent No. 6,745,942 B1 and U.S. Patent No. 7,017,812 B1 to QI3 Corporation, DBA Quest Integrated., having its principal place of business in Kent, Washington. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Sammy A. Nabors, Technology Transfer Program Office/ED03, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://techtracs.nasa.gov/*.

Dated: September 19, 2007.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. E7–19284 Filed 9–28–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–077)]

Privacy Act of 1974; Privacy Act System of Records Appendices

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Revisions of NASA appendices to Privacy Act system of records.

SUMMARY: Notice is hereby given that NASA is amending the standard appendices that it regularly publishes with the Agency's systems of records under the Privacy Act of 1974. In this notice, NASA (1) names an additional location, the NASA Shared Services Center, and updates Locations 16 and 17 for clarity in Appendix A where NASA systems of records may be maintained; (2) updates Office of Inspector General locations; (3) revises its previous routine use in Appendix B, the Agency's Standard Routine Uses to ensure the Agency's litigation routine use is in compliance with the Office of Management and Budget (OMB) Privacy Act Guidance—Update dated May 24, 1985; and (4) sets forth a new routine use in Appendix B, the Agency's Standard Routine Uses as required by OMB Memorandum 07–16 dated May 22, 2007 entitled "Safeguarding Against and Responding to the Breach of Personally Identifiable Information." This new routine use enables the Agency to quickly and effectively respond to a breach of personally identifiable information through disclosure of information regarding the breach to those individuals affected by it, as well as to persons and entities in a position to cooperate, either by assisting in notification to affected individuals or playing a role in preventing or minimizing harms from the breach.

DATES: Submit comments on or before 30 calendar days from the date of this publication. These changes will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov*.

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F.

Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

Jonathan Q. Pettus,

NASA Chief Information Officer.

Appendix A—Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1
NASA Headquarters, National Aeronautics and Space Administration Washington, DC 20546–0001
Location 2
Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000
Location 3
Dryden Flight Research Center, National Aeronautics and Space Administration, P.O. Box 273, Edwards, CA 93523–0273
Location 4
Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001
Location 5
Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696
Location 6
John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001
Location 7
Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199
Location 8
John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191
Location 9
George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001
Location 10
HQ NASA Management Office—JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099
Location 11
John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000
Location 12
JSC White Sands Test Facility, National Aeronautics and Space Administration, P.O. Drawer MM, Las Cruces, NM 88004–0020
Location 13
GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870
Location 14
MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, P.O. Box 29300, New Orleans, LA 70189
Location 15
NASA Independent Verification and Validation Facility (NASA IV & V), 100 University Drive, Fairmont, WV 26554
Location 16
Office of Inspector General, Post of Duty, 402 E. State Street, Suite 3036, Trenton, NJ 08608
Location 17
Office of Inspector General, Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222
Location 18
NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

APPENDIX B STANDARD ROUTINE USES—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph "Routine uses of records maintained in the system, including categories of users and the purpose of such uses" of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE WHEN REQUESTING INFORMATION—A record from this SOR may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION:

A record from this SOR may be disclosed to the Department of Justice when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5: ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION

It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E7–19266 Filed 9–28–07; 8:45 am]
BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–078)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a),

the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its existing system of records entitled "Health Information Management System (NASA 10HIMS)" and "Human Experimental and Research Data Records (NASA 10HERD)." System modifications are set forth below under the caption **SUPPLEMENTARY INFORMATION.**

DATES: Submit comments within 30 calendar days from the date of this publication. This system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA–PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: Modifications to the NASA systems of records include: Updates to the categories of individuals, clarification of routine uses and addition of new routine uses, revision of storage and safeguard of information, and modifications of subsystem manager titles.

Specific changes for the NASA systems of records are set forth below:

Health Information Management System/NASA 10HIMS: Categories of individuals covered by the system have been updated. Routine uses have been clarified and a new routine use added Storage and Safeguard information has been updated to reflect electronic records; and subsystem managers' titles have been updated.

Human Experimental and Research Data Records/NASA 10HERD: Routine uses have been expanded to include NASA's new routine use. Storage and safeguard information has been updated to reflect electronic records.

NASA 10HIMS

SYSTEM NAME:

Health Information Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Medical Clinics/Units and Environmental Health Offices at Locations 1 through 15 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA civil service employees and applicants; other Agency civil service and military employees working at NASA; astronauts and their families; International Space Partners astronauts, their families, or other space flight personnel on temporary or extended duty at NASA; onsite contractor personnel who receive job-related examinations under the NASA Occupational Health Program, have work-related mishaps or accidents, or come to clinic for emergency or first-aid treatment; visitors to NASA Centers who come to the clinic for emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains general medical records of medical care, first aid, emergency treatment, examinations (*e.g.*, surveillance, hazardous workplace, certification, flight, special purpose and health maintenance), exposures (*e.g.*, hazardous materials and ionizing radiation), and consultations by non-NASA physicians.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal or NASA flight surgeon physicians; consultation records; and hazardous exposure and other health hazard/abatement data.

Medical records, behavioral health records, and physical examination records of Astronauts and their families.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Pub. L. 92–255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in this system may be disclosed:

(1) To external medical professionals and independent entities to support internal and external reviews for purposes of medical quality assurance; (2) To private or other government health care providers for consultation or referral; (3) To the Office of Personnel Management, Occupational Safety and Health Administration, and other Federal or State agencies as required in accordance with the Federal agency's special program responsibilities; (4) To insurers for reimbursement; (5) To employers of non-NASA personnel in support of the Mission Critical Space Systems Personnel Reliability Program; (6) pursuant to NASA Space Act agreements to international partners for mission support and continuity of care for their employees; (7) To non-NASA personnel performing research, studies, or other activities through arrangements or agreements with NASA and for mutual benefit; (8) To the public of pre-space flight information having mission impact concerning an individual crewmember, limited to the crewmember's name and the fact that a medical condition exists; (9) To public, limited to the crewmember's name and the fact that a medical condition exists, if a flight crewmember is, for medical reasons, unable to perform a scheduled public event during the time period following Space Shuttle landing and concluding with completion of the post space flight return to duty medical evaluation; (10) To the public of medical conditions arising from accidents, consistent with NASA regulations; (11) To agency contractors or other Federal agencies, as necessary for the purpose of assisting NASA in the efficient administration of its programs; (12) To a Congressional office in response to an inquiry from that office made at the request of the subject of the record; and (13) In accordance with the routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSITIONING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in multiple formats including paper, digital, micrographic, photographic, and as medical recordings such as electrocardiograph tapes, x-rays and strip charts.

RETRIEVABILITY:

Records are retrieved from the system by the individual's name, date of birth, and/or Social Security or other assigned Number.

SAFEGUARDS:

Access limited to NASA health care providers and occupational health personnel on a need-to-know basis. Computerized records are protected via limited user accounts with secure user authentication and non-electronic records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures, which appear in the NASA regulations at 14 CFR 1212.605.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed by series in accordance with NASA Records Retention Schedule 1, Item 126, and NASA Records Retention Schedule 8, Item 57.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief Health and Medical Officer at Location 1.

Subsystem Managers: Director Occupational Health at Location 1; Chief, Space Medicine Division at Location 5; Occupational Health Contracting Officers Technical Representatives at Locations 2–4 and 6–15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained by contacting the cognizant system or subsystem manager listed above. Requests must contain the identifying data concerning the requester, *e.g.*, first, middle and last name; date of birth; and Social Security Number.

RECORD ACCESS PROCEDURES:

Individual written requests for information shall be addressed to the System Manager at Location 1 or the subsystem manager at the appropriate NASA Center.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR part 1212.

RECORD SOURCE PROCEDURES:

The information in this system of records is obtained from individuals, physicians, and previous medical records of individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1, 2, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The information in this system of records is obtained from individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; civil service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains data obtained in the course of an experiment, test, or research medical data from in-flight records, other information collected in connection with an experiment, test, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2475 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. Records and information in this system may be disclosed: (1) To other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; (2) To external biomedical professionals and independent entities to support internal and external reviews for purposes of research quality assurance; (3) To agency contractors or other Federal agencies, as necessary for the purpose of assisting NASA in the efficient administration of its programs; (4) To a Congressional office in response to an inquiry from that office made at the request of the subject of the record; and (5) In accordance with the standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSITIONING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored as paper documents, electronic media, micrographic media, photographs, or motion pictures film, and various medical recordings such as electrocardiograph tapes, stripcharts, and x-rays.

RETRIEVABILITY:

Records are retrieved by the individual's name, experiment or test; arbitrary experimental subject number; flight designation; or crewmember designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties and to appropriate support contractor employees or other individuals on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures, which appear in the NASA regulations, set forth in 14 CFR 1212.605.

RETENTION AND DISPOSAL:

Records are maintained in Agency files for varying periods of time depending on the need for use of the records and destroyed when no longer needed in accordance with NASA Records Retention Schedules, Schedule 7 Item 16.

SYSTEM MANAGER(S) AND ADDRESS(ES)

Chief Health and Medical Officer, Location 1.

Subsystem Managers: Director Life Sciences Directorate, Chief Space Medicine Division, and Program Scientist Human Research Program, all at Location 5; Institutional Review Board (IRB) Chairs at appropriate NASA Field Centers at Locations set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained by contacting the cognizant system or subsystem manager listed above. Requests must contain the identifying data concerning the requester, e.g., first, middle and last name; date of birth; and Social Security Number.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from experimental test subjects, physicians and other health care providers, principal investigators and other researchers, and previous experimental test or research records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Submitted by:

Jonathan Q. Pettus,

NASA Chief Information Officer.

APPENDIX A—Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1
NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001
Location 2
Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000
Location 3
Dryden Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273
Location 4
Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001
Location 5
Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696
Location 6
John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001
Location 7
Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199
Location 8
John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191
Location 9
George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001
Location 10
HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099
Location 11
John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000
Location 12
JSC White Sands Test Facility, National Aeronautics and Space Administration, PO Drawer MM, Las Cruces, NM 88004–0020
Location 13
GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870
Location 14
MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, PO Box 29300, New Orleans, LA 70189
Location 15
NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554
Location 16
Office of Inspector General, Post of Duty, 402 E. State Street, Suite 3036, Trenton, NJ 08608
Location 17
Office of Inspector General, Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222
Location 18
NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

APPENDIX B STANDARD ROUTINE USES—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph "Routine uses of records maintained in the system, including categories of users and the purpose of such uses" of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE WHEN REQUESTING INFORMATION—A record from this SOR may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION—A record from this SOR may be disclosed to the Department of Justice when (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5—ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E7–19267 Filed 9–28–07; 8:45 am]
BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–079)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a),

the National Aeronautics and Space Administration is issuing public notice of its proposal to combine four of its existing systems of into one new system of records, NASA 10ORIS Occupational Radiation Information System.

This system of records combines GRC 22ORER Glenn Research Center Occupational Radiation Exposure Records, GSFC 51RSCR Goddard Space Flight Center Radiation Safety Committee Records, KSC 76RTES Kennedy Space Center Radiation Training and Experience Summary, and KSC 76XRAD Kennedy Space Center Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses. It further expands the system of records to locations and subsystem managers at other NASA installations, and adds greater clarification of categories of individuals covered by the system, categories of records in the system, routine uses, and storage practices. This notice also further elaborates procedures of safeguarding the records, and of their retention and disposal.

DATES: Submit comments 30 calendar days from the date of this publication. This system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA–PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA–PAOfficer@nasa.gov.*

NASA 10ORIS

SYSTEM NAME:

Occupational Radiation Information System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 2 through 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA civil service employees and applicants; other Agency civil service and military employees working at NASA; International Space Partners, personnel who use NASA space or aeronautical vehicles; principal investigators or other visitors to NASA Centers; onsite contractor personnel who handle, use, or are exposed to ionizing or non-ionizing radiation sources and/or devices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include, but are not limited to name, date of birth, and social security number contained in: (1) Work history questionnaires and training records, including Nuclear Regulatory Commission (NRC) training and experience documents; (2) Radiation producing source and/or device use authorizing forms; (3) Personnel licenses and/or certifications; (4) Employee radiation levels including medical, background and space radiation exposure and/or calculated radiation levels from Medical records and patient histories; (5) Prenatal exposure counseling and pregnancy declarations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* 10 CFR Part 20, 29 CFR 1910.1096, and State law and/or State agreement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The following are routine uses: (1) To State oversight agencies, the NRC, and/or Occupational Safety and Health Administration (OSHA) for verification and evidence of regulatory compliance; (2) To agency contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity; and (3) To International Space Agencies (as appropriate) for data obtained on their national employees who are assigned, detailed and/or participating at a NASA Center or spacecraft and (4) To other Federal agencies including, but not limited to, the Air Force, Environmental Protection Agency (EPA), and Food and Drug Administration (FDA), as evidence of regulatory compliance and (5) In accordance with standard routine uses set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSITIONING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are kept under controlled conditions in both physical form in file cabinets and electronic form on NASA work stations and servers.

RETRIEVABILITY:

Records are retrieved from the system by the individual's name.

SAFEGUARDS:

Physical records are secured under locked conditions when not in use. Information system security for workstations and servers housing electronic records is managed in accordance with Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3541

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules (NRRS), Schedule 1 Item 130; and Schedule 8 Item 57, or individual State, NRC or OSHA requirements if longer than those in the NRRS.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Chief Health and Medical Officer, Location 1.

Subsystem Managers: NASA and Contractor Radiation Safety Officers at Locations 2 through 14 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

RECORD AMENDMENT PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals themselves, mishap reports, field surveys, licensing and certification authorities, and monitoring device laboratories.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Submitted by:

Jonathan Q. Pettus,

NASA Chief Information Officer.

Appendix A—Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1

NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001

Location 2

Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000

Location 3
Dryden Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273
Location 4
Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001
Location 5
Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696
Location 6
John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001
Location 7
Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199
Location 8
John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191
Location 9
George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001
Location 10
HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099
Location 11
John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000
Location 12
JSC White Sands Test Facility, National Aeronautics and Space Administration, PO Drawer MM, Las Cruces, NM 88004–0020
Location 13
GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870
Location 14
MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, PO Box 29300, New Orleans, LA 70189
Location 15
NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554
Location 16
Office of Inspector General, Post of Luty, 402 E. State Street, Suite 3036, Trenton, NJ 08608
Location 17
Office of Inspector General, Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222
Location 18
NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

APPENDIX B—STANDARD ROUTINE USES—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph "Routine uses of records maintained in the system, including categories of users and the purpose of such uses" of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE WHEN REQUESTING INFORMATION—A record from this SOR may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION:

A record from this SOR may be disclosed to the Department of Justice when (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5: ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION

It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

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BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–081)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its previously noticed system of records: This notice publishes updates of those systems of records as set forth below under the caption **SUPPLEMENTARY INFORMATION.**

DATES: Submit comments within 30 calendar days from the date of this publication.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–

0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: Modifications of the NASA systems of records include: Addition of a new locations; clarification of routine uses; revision of storage and safeguard information; clarification of retention and disposal information; addition of new subsystem managers and modifications of other subsystem manager titles. One previously existing SOR, NASA 611WSR—MSFC Internet Web Site Record System, is deleted as it no longer exists. Specific changes for the NASA systems of records are set forth below:

Aircraft Crewmembers' Qualifications and Performance Records/NASA 10ACMQ: Title has been changed to "Aircraft Crewmembers" Flight Records and Currency" to more accurately describe the nature of the records; categories of records have been updated; storage and safeguard information has been updated to more accurately reflect electronic records; and subsystem managers' titles have been updated.

Biographical Records for Public Affairs/NASA 10BRPA: Updated to reflect records availability via the Internet.

NASA Education Program Evaluation System/NASA 10EDUA: Updated to include all routine uses contained in Appendix B.

Equal Opportunity Records/NASA 10EEOR: Updated to include a new location and a new subsystem manager, and to include all routine uses contained in Appendix B.

National Aeronautics and Space Administration Foreign National Management System/NASA 10FNMS: Updated to include all routine uses contained in Appendix B.

NASA Freedom of Information Act System/NASA 10FOIA: Updated to include all routine uses contained in Appendix B.

Government Motor Vehicle Operators Permit Records/NASA 10GMVP: Updated to include all routine uses contained in Appendix B.

History Archives Biographical Collection/NASA 10HABC: Republication of the system with no changes.

Inspector General Investigations Case Files/NASA 10IGIC: Updated to include all routine uses contained in Appendix B.

NASA Personnel and Payroll Systems/NASA 10NPPS: Updated to add a new location and a new subsystem manager, and to include all routine uses contained in Appendix B.

Standards of Conduct Counseling Case Files/NASA 10SCCF: Updated to include a new location and a new subsystem manager, and to include all routine uses contained in Appendix B.

Security Records System/NASA 10SECR: Updated to include all routine uses contained in Appendix B, and clarification of retention and disposal information.

Special Personnel Records/NASA 10SPER: Updated to add a new location and a new subsystem manager, and to include all routine uses contained in Appendix B.

Exchange Records on Individuals/ NASA 10XROI: Updated to include all routine uses of Appendix B.

MSFC Internet Web Site Record System/NASA 611WSR: System of records deleted; no longer in existence.

Integrated Financial Management (IFM) Program—Core Financial System/ NASA 10IMF1: System number and name are changed to NASA 10IEMP Integrated Enterprise Management Program (IEMP)—Core Financial System; system updated to provide more specific retention schedules and to include all routine uses of Appendix B.

Locator and Information Services Tracking System (LISTS)/GSFC 51LISTS: System updated to include all routine uses of Appendix B.

Johnson Space Center Exchange Activities Records/JSC 72XOPR: System updated to include all routine uses of Appendix B.

Kennedy Space Center Shuttle Training Certification System (YC–04)/ KSC 76STCS: System updated to include all routine uses of Appendix B.

Submitted by:

Jonathan Q. Pettus,

NASA Chief Information Officer.

NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers' Qualifications and Performance Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 11 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) Records of experience, and currency, e.g., flight hours day, night, and instrument), types of approaches and landings, crew position, type of aircraft, flight check ratings and related examination results, and training performed; and (2) flight itineraries and passenger manifests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORES OF USERS AND THE PURPOSES OF SUCH USES:

The following are routine uses: (1) In cases of accident investigations, including mishap and collateral investigations, access to this system of records may be granted to Federal, State, or local agencies or to foreign governments; (2) to Federal, State, or local agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs, or to Federal, State, or local agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) public or press releases either by prior approval of the individual, or in the case of public release of information from mishap or collateral investigation reports, pursuant to NASA regulations at 14 CFR part 1213; and (4) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by aircrew identifier.

SAFEGUARDS:

Computerized records access is limited to only users with a business need for access and user accounts employ secure user authentication; non-electronic records are maintained in accordance with the requirements and procedures which appear at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed 5 years after crewmember separates from NASA in accordance with NASA Records Retention Schedules, Schedule 8 Item 32.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Aircraft Management Office, Location 1.

Subsystem Managers: Deputy Chief, Flight Control and Cockpit Integration Branch, Location 2; Chief, Dryden Research Aircraft Operations Division, Location 3; Head, Aeronautical Programs Branch, Location 4; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Office, Location 6; Chief, Flight Operations and Engineering Branch, Location 7; Chief, Aircraft Operations Office, Location 8; Chief, Aircraft Operations, Location 9; Chief, Contract Management, Location 10; Aircraft Management Officer, Location 11 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for requesting amendments to records and contesting record contents appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1, 3 through 9 inclusive, and Locations 11 and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in Agency programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individuals with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA Centers for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The following are routine uses: These records are made available via the Internet to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public.

POLICIES AND PRACTICEWS FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the sysetem by individual's name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when there is no longer a potential for public interest in them in accordance with NASA Records Retention Schedules, Schedule 1, Item 40.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Newsroom, Public Affairs Division, Location 1.

Subsystem Managers: Public Affairs Officer at Locations 3 through 9 and Location 11; Manager, Customer Satisfaction and Communication Office, Location 18; as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs Office at the appropriate NASA Center.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs Office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satisfaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided voluntarily by the individual generally with the aid of a form questionnaire.

NASA 10EDUA

SYSTEM NAME:

NASA Education Program Evaluation System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Secure NASA and NASA contractor Servers in Locations 1 through 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA civil servants and contractors serving as Education Program/Project Managers and Session Presenters, as well as on Program Participants and members of the public including students (K–12 and Higher Education), teachers, faculty, school administrators, and participants' parents/guardians/family members. Records are also maintained on the performance outcomes by Principal Investigators and their institutions and organizations that have been awarded grants under the Minority University Research and Education Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include identifying information about students enrolled in and/or graduated from NASA programs and whether students are promoted to the next grade level in math and/or science. Personal data is also maintained on Program managers, Program points of contact, and Session Presenters including information that includes, but is not limited to name, work address and telephone. Information about Program participants includes, but is not limited to, name, permanent and school addresses, ethnicity, gender, school grade or college level, highest attained degree and degree field, institution type, and ratings about program/experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 (2003); 44 U.S.C. 3101; 5 U.S.C. 4101 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in these records may be used to: (1) Provide information to NASA support contractors or partners on Education grants who have access to the information to fulfill their responsibilities of (a) providing and managing the Education programs on behalf of NASA, or of (b) maintaining the systems in which the information resides; (2) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; and (3) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained and stored on a secure server as electronic records.

RETRIEVABILITY:

Records may be retrieved from the system by any one or a combination of choices by authorized users to include name, identification number, zip code, state, grade level and institution.

SAFEGUARDS:

Access to records is password controlled based on functional user roles in the program. Information system security is managed in accordance with OMB Circular A–130, "Management of Federal Information Resources."

RETENTION AND DISPOSAL:

The records in this System of Records are managed, retained and dispositioned in accordance with the guidelines defined in NASA Procedural Requirements (NPR) 1441.1, NASA Records Retention Schedules, Schedule 1, item 32.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Education, Office of Strategic Communications, Location 1 (see Appendix A).

NOTIFICATION PROCEDURE:

Contact System Manager by mail at Location 1 (see Appendix A).

RECORD ACCESS PROCEDURE:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the addresses given above.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records, procedures for contesting the contents and for appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

The information is obtained directly from NASA Education Program Managers, presenters, Participants, and Principal Investigators.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Locations 11 and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on current and former employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications for employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations, 29 CFR part 1614; MSPB Regulations, 5 CFR parts 1200–1202.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORES OF USERS AND THE PURPOSES OF SUCH USES:

The following are routine uses: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings, and reviews on appeals; (2) responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) disclosures may be made to a congressional office from the record of an individual in response to a written inquiry from the congressional office made on behalf of the individual; and (4) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

These records are retrieved from the system by the complainant's name.

SAFEGUARDS:

Records are locked in file cabinets or in secured rooms with access limited to those whose official duties require access. Electronic data are maintained within locked areas in disk form.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed 4 years after resolution of case, in accordance with NASA Records Retention Schedules, Schedule 3 Item 50/E. For Compliance Records: the Review files are destroyed when 7 years old and the EEO Compliance Reports are destroyed when 3 years old, in accordance with NASA Records Retention Schedules, Schedule 3 Item 50/E.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator for Equal Opportunity Programs, Location 1.

Subsystem Managers: Equal Opportunity Officer, Locations 1, 11, and 18; Head, Equal Opportunity Programs Office, Location 4; Director of Equal Opportunity Programs at Locations 5 through 9; Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Current and former employees, applicants, NASA Center Equal Employment Opportunity (EEO) officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, Merit System Protection Board officials, complaints coordinators, Associate Administrator for Equal Opportunity Programs.

NASA 10 FNMS

SYSTEM NAME:

National Aeronautics and Space Administration Foreign National Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The centralized data system is located at the Extranet Security Portals Group, 1225 Clark Street, Suite 1103, Arlington, VA 22202

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on all non-U.S. citizens, to include Lawful Permanent Residents seeking access to NASA facilities, resources, laboratories, contractor sites, Federally Funded Research and Development Centers or NASA sponsored events for unclassified purposes to include employees of NASA or NASA contractors; prospective NASA or NASA contractor employees; employees of other U.S. Government agencies or their contractors of universities, of companies (professional or service staff), or of other institutions; foreign students at U.S. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation with NASA under international agreements; permanent resident aliens; foreign media representatives; and representatives or agents of foreign national governments seeking access to NASA facilities, to include high-level protocol visits; or international relations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include information about the individuals seeking access to NASA resources. Information about individual may include, but is not limited to: name, home address, place of birth and citizenship, U.S. visitor/travel document numbers, employment information, Tax Identification Numbers (Social Security Number), and reason and length of proposed NASA access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 304(a) of the National Aeronautics and Space Act, codified at 42 U.S.C. 2455; Federal Property Management Regulation, 41 CFR Ch. 101; 14 CFR parts 1203 through 1203b; 14 CFR 1213; 15 CFR 744; 22 CFR 62; 22 CFR 120–130; 40 U.S.C. 1441, and 44 U.S.C. 3101, and Executive Order 9397.

PURPOSE(S):

Records are maintained and used by NASA to document, track, manage, analyze, and/or report on foreign visit and assignment access to NASA facilities including Headquarters, Field Offices, National Laboratories, Federally Funded Research and Development Centers, Contractor Sites, components facilities (NASA Management Office, Wallops Flight Facility, White Sands Test Facility, White Sands Complex, Independent Validation & Verification Facility, Michoud Assembly Center, Moffett Federal Airfield, Goldstone Deep Space Communications Complex, Goddard Institute for Space Studies, National Scientific Balloon Facility, Plum Brook Station).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

1. A record from this system may be disclosed to authorized contractors who are responsible for NASA security and who require this information to perform their contractual obligations to NASA.

2. A record from this system may be disclosed to contractors, grantees, participants in cooperative agreements, collaborating researchers, or their employees, if required for the performance of their responsibilities with respect to national security, international visit and assignment, or foreign access.

3. A record from this system may be disclosed to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member with respect to the subject matter of his or her own record. The member of Congress must provide a copy of the constituent's request for assistance.

4. A record from this system may be disclosed to foreign governments or international organizations if required by treaties, international conventions, or executive agreements.

5. A record from this system may be disclosed to members of a NASA Advisory Committee or Committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security when authorized by the individual or to the extent the committee(s) is so authorized and such disclosure is required by law.

6. A record from this system may be disclosed to Federal intelligence organizations, when required by applicable law.

7. A record from this system may be disclosed to Federal agencies for the purpose of determining preliminary visa eligibility when authorized by the individual or as required by law.

8. A record from this system may be disclosed to respond to White House inquiries when required by law.

9. A record from this system may be disclosed to a NASA contractor, subcontractor, grantee, or other Government organization involved in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization, when and to the extent the information is required by law.

10. A record from this system may be disclosed to an internal or external organization or element thereof, conducting audit activities of a NASA contractor or subcontractor to the extent required by law.

11. A record from this system may be disclosed to provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation, to the extent necessary and required by law.

12. NASA standard routine uses as set forth in Appendix B

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system will be stored in electronic format.

RETRIEVABILITY:

Records may be retrieved by name and other personal identifiers. Records are indexed by individual's name, file number, badge number, decal number, payroll number, passport or visa numbers, and/or Social Security Number.

SAFEGUARDS:

An approved security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only when and to the extent such access is legally authorized, each item of information is required for his or her job, and the access is in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the system.

RETENTION AND DISPOSAL:

Records are stored in the Foreign National Management System and

managed, retained and dispositioned in accordance with the guidelines defined in NASA Procedural Requirements (NPR) 1441.1D, NASA Records Retention Schedules, Schedule 1, item 35.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Management Division, National Aeronautics and Space Administration, Headquarters, Office of Security and Program Protection, 300 E. Street, SW., Washington, DC 20546–0001.

NOTIFICATION PROCEDURES:

Individuals inquiring about their records should notify the System Manager at the address given above.

RECORDS ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the address given above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date and place of birth; Visa/Passport/ Social Security Number; period and place of visit/assignment/employment with NASA.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records and the procedures for contesting the contents and appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Records, including official government documentation, are provided by individuals requesting access to NASA facilities and contractor sites, from existing databases containing this information at Federally Funded Research and Development Centers, and from other Federally funded sources located at NASA facilities.

NASA 10FOIA

SYSTEM NAME:

NASA Freedom of Information Act System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on individuals requesting NASA records under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include a summary of NASA documentation requested under each FOIA request, as well as personal information about the individual requesters including names, home addresses, home telephone numbers, and email addresses. Personal information is being collected and maintained from requesters in order to ensure that the NASA FOIA Offices will be able to properly respond to their FOIA request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 552; 14 CFR part 1206.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in these records may be used to: (1) Provide information to NASA support contractors who are responsible for the tracking of individual FOIA requests under the Freedom of Information Act; (2) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; and (3) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained and stored on a NASA secure server as electronic records.

RETRIEVABILITY:

Records may be retrieved from the system by name of requester, business name or address of requester.

SAFEGUARDS:

Approved security plans for these systems have been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the systems and only from workstations within the NASA's Intranet.

RETENTION AND DISPOSAL:

Records are retained in computer databases and managed, retained and dispositioned in accordance with the guidelines defined in the NASA Procedural Requirements (NPR) 1441.1D, NASA Records Retention Schedules (NRRS), Schedule 1, Item 49.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager: Principal Agency FOIA Officer, Office of Public Affairs, Location 1, as set forth in Appendix A. Subsystem Managers: Center FOIA Officers, located within locations 2–11, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the system manager or subsystem manager at the appropriate NASA Center, as set forth in Appendix A.

RECORD ACCESS PROCEDURE:

Individuals who wish to gain access to their records should submit their request in writing to the system manager or subsystem manager at the appropriate NASA Center, as set forth in Appendix A.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records, procedures for contesting the contents and for appealing initial determinations are set forth in Title 14, Code of Federal Regulations, Part 1212.

RECORD SOURCE CATEGORIES:

Information is collected directly from individuals making Freedom of Information Act requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 3 and 6 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA employees and contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 41 CFR subpart 101–38.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORES OF USERS AND THE PURPOSES OF SUCH USES:

NASA may disclose records from this system in accordance with NASA standard routine as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by individual's name.

SAFEGUARDS:

Records are kept in locked cabinets with access limited to those whose official duties require access. Room is locked during nonduty hours.

RETENTION AND DISPOSAL:

Records will be maintained in Agency files and destroyed 3 years after permit expires or holder leaves NASA in accordance with NASA Records Retention Schedules, Schedule 6 Item 12.

SYSTEM MANAGER(S) AND ADDRESS:

Subsystem Managers: Transportation Officer, Location 3 and Chief, Transportation Branch, Location 6. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees supply information on their own traffic records.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 1 and 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by an individual; correspondence, interviews, and various other tapes and transcripts of program activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: Disclosure to scholars (historians and other disciplines) or any other interested individuals for research in writing dissertations, articles, and books, for government, commercial, and nonprofit publication or developing material for other media use.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

The records are retrieved from the system by the individual's name.

SAFEGUARDS:

Because these records are archive material and, therefore, a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Records are retained indefinitely in Agency reference collections in history offices, but may be destroyed when no longer needed in accordance with NASA Records Retention Schedules, Schedule 1 Item 10.

SYSTEM MANAGERS AND ADDRESSES:

Chief Historian, Location 1.

Subsystem Manager: Public Affairs Officer, Location 11 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager listed above.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, copies of internal Agency records, and the individuals themselves.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of national security pursuant to Executive Order 11652.

SYSTEM LOCATION:

Locations 1 through 11, 14, 16 and 17 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on current and former employees of NASA, contractors, and subcontractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) theft of Government property, (3) bribery, (4) lost or stolen lunar samples, (5) misuse of Government property, (6) conflict of interest, (7) waiver of claim for overpayment of pay, (8) leaks of Source Evaluation Board information; (9) improper personal conduct, (10) irregularities in awarding contracts; (11) computer crimes; (12) research misconduct; and (13) whistleblower protection under the Federal Acquisition Simplification Act and the Federal Acquisition Regulation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. Appendix 3;

PURPOSE(S):

Information in this system of records is collected in the course of investigating alleged crimes and other violations of law or regulation that affect NASA. The information is used by prosecutors, Agency managers, law

enforcement agencies, Congress, NASA contractors, and others to address the crimes and other misconduct discovered during investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The following are routine uses: (1) Responding to the White House, the Office of Management and Budget, and other organizations in the Executive Office of the President regarding matters inquired of; (2) disclosure to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the request of that individual; (3) providing data to Federal intelligence elements; (4) providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) providing personal identifying data to Federal, State, local, or foreign law enforcement representative seeking confirmation of identity of persons under investigations; (6) disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution, to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor, subcontractor, or grantee is able to take administrative or corrective action; (7) disclosing to any official (including members of the President's Council on integrity and Efficiency and staff and authorized officials of the Department of Justice and Federal Bureau of Investigation) charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in OIG operations; (8) disclosing to members of the President's Council on Integrity and Efficiency for the preparation of reports to the President and Congress on the activities of the Inspectors General; (9) disclosing to the public when: The matter under investigation has become public knowledge, or when the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the OIG investigative process, or to demonstrate the accountability of NASA officers, or employees, or other individuals covered by this system, unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (10) disclosing to the news media and public when there exists a legitimate public interest (e.g., to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property; (11) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Information is retrieved from the system by name of the individual.

SAFEGUARDS:

Information is kept in locked cabinets and in secured vaults and computer rooms. Information stored on computers is on a restricted-access server and is protected by an official password and user identification. Access is limited to Inspector General personnel with an official need to know.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed in accordance with NASA Procedural Requirements (NPR) 1441.1, NASA Records Retention Schedules, Schedule 9. Files containing information of an investigative nature but not related to a specific investigation are destroyed in accordance with NPR 1441.1. Significant case files are scheduled for disposition with the National Archives and Records Administration when closed. All other case files are destroyed 10 years after file is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Special and Resident Agents in Charge, Location 2, 4 through 11 inclusive, 14, 16, and 17 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

None. System is exempt (see below).

RECORD ACCESS PROCEDURES:

None. System is exempt (see below).

CONTESTING RECORD PROCEDURES:

None. System is exempt (see below).

RECORD SOURCE CATEGORIES:

Exempt.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

(1) The Inspector General Investigations Case Files systems of records is exempt from any part of the Privacy Act (5 U.S.C. 552a), EXCEPT the following subsections: (b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A)–(F) relating to publishing a system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10), and (11) relating to dissemination and maintenance of records; (i) relating to criminal penalties. This exemption applies to those records and information contained in the system of records pertaining to the enforcement of criminal laws.

(2) To the extent that there may exist noncriminal investigative files within this system of records, the Inspector General Investigations Case Files system of records is exempt from the following subsections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to disclosure accounting, (d) relating to access to reports, (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H), and (I) relating to publishing the system notice information as to agency procedures for access and amendment and information as to the categories of sources of records, and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and (k) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212, for the reason that a component of the Office of Inspector General, NASA, performs as its principal function activities pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10NPPS

SYSTEM NAME:

NASA Personnel and Payroll Systems.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Locations 11 and 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 *et seq.*; 5 U.S.C. 6301 *et seq.*; General Accounting Office's General Policies/Procedures and Communications Manual, Chapter 7; Treasury Fiscal Requirements Manual, Part III; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) to facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) to report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits, and retirements, and (b) separated employees subject to retirement; (4) to furnish the U.S. Treasury magnetic tape reports and/or electronic files on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) to provide the Internal Revenue Service with details of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) to furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) to provide various Federal, State, and local taxing authorities itemized listings of withholdings for individual income taxes; (8) to respond to requests for State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) to report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) to furnish leave balances and activity to the Office of Personnel Management upon request; (11) to furnish data to labor organizations in accordance with negotiated agreements; (12) to furnish pay data to the Department of State for certain NASA employees located outside the United States; (13) to furnish data to a consumer reporting agency or bureau, private collection contractor or debt collection center in accordance with section 3711 of Title 31 of the United States Code; (14) to forward delinquent debts, and all relevant information related thereto, to the U.S. Department of Treasury, for collection; (15) to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, National Directory of New Hires, part of the Federal Parent Locator Service (FPLS) and the Federal Tax Offset System, DHHS/OCSE No. 09–90–0074, for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. 104–193); and (16) NASA standard routine uses as set forth in Appendix B.

Disclosure to consumer reporting agencies:

Disclosure pursuant to 5 U.S.C. 552a(b): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or "private collection contractor" under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701, *et seq.*).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by the individual's name and/or Social Security Number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and transferred to the National Personnel Records Center (NPRC) within 3 years of creation in accordance with NASA Records Retention Schedules, Schedule 3 Item 47. Records transferred to NPRC will be destroyed when 10 years old by NPRC.

SYSTEM MANAGERS AND ADDRESSES:

Director, Financial Management Division, Office of the Chief Financial Officer, Location 1.

Subsystem Managers: Chief, Financial Officers, Locations 2 through 9, and Locations 11 and 18. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the same address as identified in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office(s), and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counseling Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 1 through 11 inclusive, and Location 18, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on current, former, and prospective NASA employees who have sought advice or have been counseled regarding conflict of interest rules for Government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 18 U.S.C. 201, 203, 205, 207–209; 5 U.S.C. 7324–7327; 5 U.S.C. Appendix; 14 CFR part 1207; 5 CFR parts 2634–2641; 5 CFR part 6901; and Executive Order 12674, as modified by Executive Order 12731.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Office of Personnel Management, Office of Government Ethics, and Merit Systems Protection Board for investigation of possible violations of standards of conduct which the agencies directly oversee; and (2) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained in paper form in loose-leaf binders or file folders.

RETRIEVABILITY:

Records are retrieved from the system by name of individual.

SAFEGUARDS:

Restricted access to persons authorized by General Counsel or Center Chief Counsel; stored in combination lock safe.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when 6 years old in accordance with NASA Records Retention Schedules, Schedule 1 Item 133/B.

SYSTEM MANAGERS AND ADDRESSES:

Associate General Counsel for General Law, Code GG, Location 1; Chief Counsel, Locations 2 through 11; and Counsel to the Executive Director, Location 18, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA Center where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his/her official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 and Locations 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on civil Servant Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, Intergovernmental Personnel Mobility Act (IPA) Employees, Grantees, Cooperative Employees, and Remote Users of NASA Non-Public Information Technology Resources.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Personal Identity Records including NASA visitor files, Emergency Data Records, Criminal Matters, and Traffic Management. Specific records fields include, but are not limited to: Name, former names, date of birth, place of birth, social security number, home address, phone numbers, citizenship, traffic infraction, security violation, security incident, security violation discipline status and action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2451, *et seq.*, the National Aeronautics and Space Act of 1958, as amended; Espionage and Information Control Statutes, 18 U.S.C. 793–799; Sabotage Statutes, 18 U.S.C. 2151–2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202–208, 3056; Internal Security Act of 1950; Atomic Energy Act of 1954, as amended; Executive Order 12958, as amended, Classified National Security Information; Executive Order 12968, as amended, Access to Classified Information; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; (Pub. L.) 81–733; (Pub. L.) 107–347, Federal Information Security Management Act 2002; 41 CFR Chapter 101; 14 CFR Part 1203; and 44 U.S.C. 3101; Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in these records may be disclosed to:

1. To the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

2. To a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. To an Agency in order to provide a basis for determining preliminary visa eligibility.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. To a staff member of the Executive Office of the President in response to an inquiry from the White House.

6. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

7. To agency contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

8. To other Federal agencies and relevant contractor facilities to determine eligibility of individuals to access classified National Security information.

9. To any official investigative or judicial source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the

investigation, and to identify the type of information requested.

10. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

11. To a Federal State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

12. In order to notify an employee's next-of-kin or contractor in the event of a mishap involving that employee or contractor.

13. To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

14. To provide relevant information to an internal or external organization or element thereof conducting audit activities of a NASA contractor or subcontractor.

15. Disclosure to a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or state statute or regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization.

16. NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media and hard-copy documents.

RETRIEVABILITY:

Records are retrieved from the system by individual's name, file number, badge number, decal number, payroll number, Agency-specific unique personal identification code, and/or Social Security Number.

SAFEGUARDS:

Access to system records is controlled by either Government personnel or selected personnel of NASA contractor guard/security force and contractor personnel. After presenting proper identification and requesting a file or record, a person with an official need to know and, if appropriate, a proper clearance may have access to a file or records only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment, and/or information technology systems employing security countermeasures.

RETENTION AND DISPOSAL:

The Personnel Security Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NASA Records Retention Schedules (NRRS), Schedule 1 Item 103.

The Personal Identity Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NRRS, Schedule 1 Item 103. Visitor files are maintained and destroyed in accordance with NRRS, Schedule 1 Item 114.

The Emergency Data Records are maintained in Agency files and destroyed when superseded or obsolete in accordance with NRRS 1, Item 100B.

The Criminal Matter Records are maintained in Agency files and destroyed in accordance with Items A and B of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

The Traffic Management Records are maintained in Agency files and destroyed in accordance with Item C of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Management Division, Location 1. Subsystem Managers: Chief, Protective Services Division, Location 2; Chief, Security Branch, Locations 4 and 5; Security Officer, Location 3, 8, and 11; Chief, Protective Services Office, Location 6; Head, Office of Security and Public Safety, Location 7; Chief, Security Division, Location 9; Chief, Administration Office, Location 12; Safety and Security Officer at Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date of birth; Social Security Number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 552a(k)(5) from the access provisions of the Act.

Personal Identity Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Emergency Data Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a(k)(2) from the access provision of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records, see Record Access Procedures, above. For Personal Identity Records, Emergency Data Records, and Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from a variety of sources including the employee, contractor, or applicant via use of the Standard Form (SF) SF–85, SF–85P, or SF–86 and personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, coworkers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is

obtained from a variety of sources, such as guard reports, security inspections, witnesses, supervisor's reports, audit reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Personnel Security Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(5) and Subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Criminal Matter Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(2) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Records subject to the provisions of 5 U.S.C. 552(b)(1) required by Executive Order to be kept secret in the interest of national defense or foreign policy are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(1) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 inclusive, and locations 11 and 18 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, associates and guest workers including those at NASA Centers but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees; former and current participants in existing and future educational programs, including the Summer High School Apprenticeship Research Program (SHARP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, Life and Health Insurance, Retirement, Upward Mobility, and Work Injury Counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; (7) Welfare to Work files; and (8) Supervisory Appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of address; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement follow-ups; (8) Preemployment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions in force; (11) Records under administrative as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning death, retirement records, and other information pertaining to separated employees; (13) Special planning analysis and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files, (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records; (6) Follow-up records for educational programs, such as the SHARP and other existing or future programs.

Agencywide and Center automated personnel information: Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, associates and guest workers including those at NASA Centers but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records. Information about members of advisory committees and similar organizations: All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish Government wide Privacy Act Notices in the **Federal Register**.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Disclosures to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) disclosures to Federal agencies developing statistical or data presentations having need of information about individuals in the records; (3) responses to other Federal agencies and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) disclosure to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the request of that individual; and (5) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by any one or a combination of name, birth date, Social Security Number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures that appear in the NASA regulations at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and not all record types are authorized for disposal at this time, but records such as Pay records are transferred to the National Personnel Records Center (NPRC) within 3 years of creation in accordance with NASA Records Retention Schedules, Schedule 3 Item 19. Records transferred to NPRC will be destroyed when 10 years old by NPRC.

SYSTEM MANAGERS AND ADDRESSES:

Associate Administrator for Human Resources and Education, Location 1. Subsystem Managers: Director, Personnel Division, Office of Inspector General, and Chief, Elementary and Secondary Programs Branch, Educational Division, Location 1; Director of Personnel, Locations 1, 3, 4, 6, and 8; Director of Human Resources, Location 2, 5, and 9; Director, Office of Human Resources, Location 7; Human Resources Officer, Location 11; Director, Human Resources Services Division, Location 18. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, Social Security Number), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee).

RECORD ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by individual concerned are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and Personnel Office(s).

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1, 2, 4, 6, 7, 8, 9, and 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on present and former employees of, and applicants for employment, with NASA Exchanges, Recreational Associations, and Employers' Clubs at NASA Centers and members of or participants in NASA Exchange activities, clubs and/or recreational associations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, membership and participation records on Exchange-sponsored activities, clubs and/or recreational associations, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) to facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) to provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) to respond to State employment compensation requests for wage and separation data on former employees; (5) to report previous job injuries to worker's compensation organizations; (6) for person to notify in an emergency; (7) to report unemployment record to appropriate State and local authorities; (8) when requested, provide other employers with work record; and (9) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by individual's name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures that appear in the NASA regulations at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when 5 years old in accordance with NASA Records Retention Schedules, Schedule 9 Item 6/D.

SYSTEM MANAGERS AND ADDRESSES:

Associate Administrator, Management Systems & Facilities, Location 1. Subsystem Managers: Exchange Operations Manager, Location 2, Chairperson, Exchange Council, Location 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9;

Manager, NASA Exchange, Location 11; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant Subsystem Managers listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be directed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 10IEM1

SYSTEM NAME:

Integrated Enterprise Management Program (IEMP)—Core Financial System.

SECURITY CLASSIFICATION:

This system is categorized in accordance with OMB Circular A–11 as a Special Management Attention Major Information System. A security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources.

SYSTEM LOCATION:

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the NASA Core Financial (CF) System include former and current NASA employees and non-NASA individuals requiring any type of payment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may include information about the individuals including Social Security Number (Tax Identification Number), home address, telephone number, e-mail address, and bank account information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act of 1958, *et seq.* as amended. 42 U.S.C. 2473 (2003); Federal Records Act, 44 U.S.C. 3101 (2003); Chief Financial Officers Act of 1990 205(a), 31 U.S.C. 901 (2003); Financial Management Improvement Act of 1996 802, 31 U.S.C. 3512 (2003).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Furnish data to the Department of Treasury for financial reimbursement of individual expenses, such as travel, books, and other miscellaneous items; (2) Process payments and collections in which an individual is reimbursing the Agency; (3) Ongoing administration and maintenance of the records, which is performed by authorized NASA employees, both civil servants and contractors; and (4) NASA Standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media.

RETRIEVABILITY:

Records are retrieved from the system by name or SSN (Tax ID).

SAFEGUARDS:

An approved security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the system and only from workstations within the NASA Intranet.

RETENTION AND DISPOSAL:

Records are stored in the IEM database and managed, retained and dispositioned in accordance with the guidelines defined in the NASA Procedural Requirements (NPR) 1441.1D, NASA Records Retention Schedules, Schedule 9, Items 11 and 13.

SYSTEM MANAGERS AND ADDRESSES:

AD04/Manager of the IEMP Competency Center, George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the System Manager at the address given above.

RECORD ACCESS PROCEDURE:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the address given above.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records, procedures for contesting the contents and for appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

The information is received by the IEMP Core Financial System through an electronic interface from the NASA Personnel Payroll System (NPPS). In certain circumstances, updates to this information may be submitted by NASA employees and recorded directly into the IEMP Core Financial System.

GSFC 51LISTS

SYSTEM NAME:

Locator and Information Services Tracking System (LISTS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 4 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on all onsite and offsite NASA/GSFC civil service personnel and onsite and nearsite contractors, tenants, and other guest workers possessing or requiring badge identifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

In order to achieve the goal for LISTS of a comprehensive and accurate source of information for institutional services and planning, general and personal information as noted below must be collected.

General information: (1) Last Name; (2) First Name; (3) Middle Initial; (4) Nickname; (5) Title/Degree; (6) Position/Job Title; (7) Skill Classification; (8) Administrative Level; (9) Organization Code; (10) Mail Code; (11) Telephone Extension; (12) Alternate Telephone Extension; (13) Building; (14) Room; (15) Shift Worked; (16) Offsite Telephone Number; (17) Offsite Location; (18) Contract Number; (19) Authorization Type if Non-Contractor/Civil Service personnel; (20) and (21) Acronym of Contractor and/or Host Organization; (22) FAX Numbers (optional); and (23) E-mail Addresses (optional).

Personal information: (1) Social Security Number; (2) Birth Date; (3) Sex;

(4) Citizenship; (5) If Not U.S. Citizen, Immigration Alien Number; (6) Street Residence; (7) City Residence; (8) County Residence; (9) State Residence; (10) Zip Code Residence; (11) Residence Telephone; (12) Name of Emergency Contact; (13) Relationship of Emergency Contact; (14) Telephone Number of Emergency Contact; and (15) Address of Emergency Contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Disclosures to organizations or individuals having contract, legal, administrative, or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, nonprofit organizations, and contractors and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) disclosure may be made to a congressional office from the record of an individual in response to written inquiry from the congressional office made at the request of that individual; and (4) NASA standard routine uses as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

General fields are indexed by any one or combination of choices to authorized users. Personal fields are not retrievable except by designees in the Security and Library Offices and the System Manager. For the library, the retrievability is for Social Security Number, immigration alien number, and name only.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR 1212.605, utilizing locked file cabinets and/or secured rooms and through the password and access protections built into the data base management software system.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed when no longer needed in accordance with NASA Records Retention Schedules, Schedule 1 Item 104.

SYSTEM MANAGERS AND ADDRESSES:

Institutional Support Office, Code 201.0, Location 4 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to GSFC Security Office at the appropriate location. Processing requires a completed and signed GSFC Form 24–27.

RECORD ACCESS PROCEDURE:

Same as Notification Procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain.

JSC 72XOPR

SYSTEM NAME:

Johnson Space Center Exchange Activities Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on employees and past employees of Johnson Space Center (JSC) Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange–JSC. These records contain information about an individual relating to birth date; Social Security Number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction in force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains financial transactions or holdings, employment history, medical data and other related information supplied by the individual Center employees who applied for the Exchange Scholarship.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Policy Directive 9050.6; Treasury Fiscal Requirement Manual, Part III.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media.

RETRIEVABILITY:

For JSC Exchange employees, records are retrieved from the system by name and filed as current or past employee. For Scholarship applicants, records are retrieved from the system by name. For participants in social or sports activities, records are retrieved from the system by name.

SAFEGUARDS:

Payroll records are located in locked metal file cabinets with access limited to those whose official duties require access. Other records are located in file cabinets available only in rooms where the access is limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Personnel records of JSC Exchange operations employees are retained indefinitely in Agency space to satisfy payroll, reemployment, unemployment compensation, tax, and employee retirement purposes. For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and are then destroyed. Records pertaining to unsuccessful applicants are destroyed. For participants in social or sports activities, records are maintained for stated participation period and are then destroyed. These dispositions are in accordance with NASA Records Retention Schedules, Schedule 9 Item 6.

SYSTEM MANAGERS AND ADDRESSES:

Manager, Exchange Operations, NASA Exchange–JSC, Location 5, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Employment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

KSC 76STCS

SYSTEM NAME:

Kennedy Space Center Shuttle Training Certification System (YC–04).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 6 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on Kennedy Space Center (KSC) civil service, KSC contractor, and Department of Defense personnel who have received systems, safety, reliability and quality assurance, and skills training in support of KSC or Space Shuttle operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to the Base Operations contractor, to facilitate the performance of the contracts. The Base Operations contractor compiles these training records for KSC; (2) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained as hard-copy documents and on electronic media. All records for KSC are maintained by a NASA contractor on computer tape with printouts made as required. Bar code readers are utilized for transfer of information on course attendees to a central processing unit by contractor personnel.

RETRIEVABILITY:

Records are retrieved from the system by Social Security Number and individual's name.

SAFEGUARDS:

These training records are maintained under administrative control of responsible organizations in areas that are locked when not in use. In addition, records are safeguarded in accordance with the requirements and procedures, which appear in the NASA regulations at 14 CFR 1212.605.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed 3 years after trainee is separated from NASA in accordance with NASA Records Retention Schedules, Schedule 8 Item 33.

SYSTEM MANAGERS AND ADDRESSES:

Chief, Human Resources Development Branch, Location 6, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class input, rosters, operational records, reports of physical examination completions, and actions implemented by certification boards.

Appendix A—Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1
NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001
Location 2
Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000
Location 3
Dryden Flight Research Center, National Aeronautics and Space Administration, P.O. Box 273, Edwards, CA 93523–0273
Location 4
Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001
Location 5

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696

Location 6

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001

Location 7

Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199

Location 8

John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191

Location 9

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001

Location 10

HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099

Location 11

John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000

Location 12

JSC White Sands Test Facility, National Aeronautics and Space Administration, P.O. Drawer MM, Las Cruces, NM 88004–0020

Location 13

GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870

Location 14

MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, P.O. Box 29300, New Orleans, LA 70189

Location 15

NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554

Location 16

Edison Post of Duty, c/o DCIS, P.O. 1054, Edison, NJ 08818

Location 17

Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222

Location 18

NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

Appendix B—Standard Routine Uses—NASA

The following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph "Routine uses of records maintained in the system, including categories of users and the purpose of such uses" of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR USE IN LITIGATION:

It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 5—ROUTINE USE FOR AGENCY DISCLOSURE IN LITIGATION—It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—SUSPECTED OR CONFIRMED CONFIDENTIALITY COMPROMISE—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

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BILLING CODE 7510–13–P

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

Performance Review Board and Membership

AGENCY: Office of Navajo and Hopi Indian Relocation.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointments of members to a performance review board for the Office of Navajo and Hopi Indian Relocation.

FOR FURTHER INFORMATION CONTACT: Michael J. McAlister, Deputy Director, Office of Navajo and Hopi Indian Relocation, 201 E. Birch Ave., Room 11, Flagstaff, AZ 86001, Telephone (928) 779–2721.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service (SES) performance review boards. The function of the boards is to review and evaluate the initial appraisal of senior executives' performance and make recommendations to the appointing authority relative to the performance of these executives. Because of its small size, the Office of Navajo and Hopi Indian Relocation has appointed SES appointees from other Federal agencies to serve on its performance review board. The members of the performance review board for the Office of Navajo and Hopi Indian Relocation are:

Ronald Linz, Deputy Director, International Broadcasting Bureau.
John Farrell, Executive Director, U.S. Arctic Research Commission.
Ernest Garcia, Deputy Director, Selective Service System.

Dated: September 24, 2007.

Michael J. McAlister,

Deputy Director, Office of Navajo and Hopi Indian Relocation.

[FR Doc. 07–4802 Filed 9–28–07; 8:45 am]

BILLING CODE 7560–01–M

NUCLEAR REGULATORY COMMISSION

Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit Nos. 2 and 3; Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR–26 and DPR–64 for an Additional 20-Year Period: Extension of Time for Filing of Requests for Hearing or Petitions for Leave To Intervene in the License Renewal Proceeding

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: License renewal: Extension of time for the filing of requests for hearing or petitions for leave to intervene in the license renewal proceeding.

SUMMARY: On August 1, 2007 (72 FR 42134), the Nuclear Regulatory Commission (NRC) announced its acceptance for docketing of the application and notice of opportunity for hearing for the renewal of Operating License Nos. DPR–26 and DPR–64, which authorize Entergy Nuclear Operations, Inc. to operate Indian Point Nuclear Generating Unit Nos. 2 and 3, respectively, at 3216 megawatts thermal (MWt) for each unit. A sixty-day period was provided for the filing of written requests for a hearing or petitions for leave to intervene with respect to the renewal of the license. The period for the filing of requests for a hearing or petitions for leave to intervene was to have expired on October 1, 2007.

The period for the filing of requests for a hearing or petitions for leave to intervene has been extended and now expires on November 30, 2007. The period for filling answers to such requests or petitions has also been extended.

DATES: The period for the filing of requests for a hearing or petitions for leave to intervene has been extended and now expires on November 30, 2007. Answers to such requests or petitions are now due on January 11, 2008, and replies to those answers are due on January 18, 2008 (see 10 CFR 2.309(h)). Non-timely requests and/or petitions and contentions will not be entertained absent a determination of the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

ADDRESSES: A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) Courier, express mail, and expedited delivery services to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemaking and Adjudications Staff at 301–415–1101 (verification number: 301–415–1966).[1] A copy of the request for hearing or petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing or petition for leave to intervene should also be sent to the Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating licenses for Indian Point Nuclear Generating Unit Nos. 2 and 3 are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. The same documents may also be viewed and downloaded electronically via the applications Web site, *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Numbers ML071210507, ML071280700, and ML071800318. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC PDR Reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

The NRC staff has verified that a copy of the license renewal application is also available to local residents near Indian Point Nuclear Generating Unit Nos. 2 and 3 at the White Plains Public Library, 100 Martine Avenue, White Plains, NY 10601; the Field Library, 4 Nelson Avenue, Peekskill, NY 10566; and the Hendrick Hudson Free Library, 185 Kings Ferry Road, Montrose, NY 10548.

Dated at Rockville, Maryland, this 25th day of September 2007.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–19311 Filed 9–28–07; 8:45 am]

BILLING CODE 7590–01–P

[1] If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff.

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8838–MLA; ASLBP No. 00–776–04–MLA]

Atomic Safety and Licensing Board; in the Matter of: U.S. Army (Jefferson Proving Ground Site); Notice of Hearing (Application for a License Amendment)

September 20, 2007.

Before Administrative Judges: Alan S. Rosenthal, Chairman; Dr. Paul B. Abramson, Dr. Richard F. Cole.

This Atomic Safety and Licensing Board hereby gives notice that, pursuant to 10 CFR Part 2, Subpart L, it will convene an evidentiary hearing on October 22, 2007 to receive testimony and exhibits concerning the adequacy of the Field Sampling Plan (FSP) in the application submitted by the Department of the Army (Licensee) for an amendment to its NRC materials license (License No. SUB–1435) for an alternate decommissioning schedule. *See* 10 CFR 40.42(g)(2).

Between 1983 and 1994, under the auspices of that license, the Licensee

conducted accuracy testing of depleted uranium (DU) tank penetration rounds at its Jefferson Proving Ground site located in Madison, Indiana. It now seeks a license amendment that would provide an alternate schedule (i.e., a five-year additional period) for the submittal of a decommissioning plan for that site. Such a plan is required because there is currently amassed on the JPG site approximately 70,000 kilograms of DU munitions.

This Board has found one contention presented by Save the Valley, Inc. (Intervenor) regarding the alternate decommissioning schedule to satisfy the admissibility requirements imposed by 10 CFR 2.309(f)(1). LBP–06–6, 63 NRC 167 183–85 (2006). That contention asserts (*id.* at 183):

> As filed, the FSP is not properly designed to obtain all the verifiable data required for reliable dose modeling and accurate assessment of the effects on exposure pathways of meteorological, geological, hydrological, animal, and human features specific to the JPG site and its surrounding area.

On December 20, 2006 and May 1, 2007, the Board rejected Intervenor's other contentions as inadmissable. *See* LBP–06–27, 64 NRC 438 (2006); LBP–07–07, 65 NRC__(slip op.) (2007).

A. Date, Time, and Location of Evidentiary Hearing

The evidentiary hearing in this proceeding, which will be open to the public,[1] will begin on Monday, October 22, 2007 at 10:30 a.m., and will continue day-to-day, ending no later than Friday, October 26 at 5 p.m., at the location specified below:

Madison City Hall, 101 W. Main Street, Madison, IN 47250.

B. Submitting Written Limited Appearance Statements

Any person not a party to the proceeding, including persons who are affiliated with or represented by a party, may submit to the Board at any time a written limited appearance statement setting forth his or her position on matters of concern relating to this proceeding. *See* 10 CFR 2.315(a).

[1] Members of the public who plan to attend the evidentiary hearing are advised that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases, backpacks, packages, etc. In addition, signs, banners, posters, and displays will be prohibited because they are disruptive to the conduct of the adjudicatory process. *See* Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001).

In the event that a party deems it necessary to discuss protected information at the hearing, that portion of the hearing will be closed to the public. *See* 10 CFR 2.390(a)(4).

Although these statements do not constitute testimony or evidence in the proceeding, they nonetheless may assist the Board and/or the parties in their consideration of the issues. Such statements should be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–1101 (verification (301) 415–1966).

E-mail: hearingdocket@nrc.gov.

In addition, using the same method of service, a copy of the written statement must be sent to the Chairman of this Licensing Board as follows:

Mail: Administrative Judge Alan S. Rosenthal, c/o: Meg Parish, Esq., Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T–3 F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599 (verification (301) 415–6094).

E-mail: map4@nrc.gov.

On Tuesday July 18, 2006, this Board entertained oral limited appearance statements from members of the public in connection with this proceeding. *See* Notice (Notice of Opportunity To Make Oral or Written Limited Appearance Statements), 71 FR 33,776 (June 6, 2006). Another such opportunity for oral statements will not be presented in this notice at this time.

C. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

It is so *Ordered.*

For the Atomic Safety and Licensing Board[2]

[2] Copies of this Memorandum and Order were sent this date by Internet electronic mail transmission to counsel for (1) the Licensee, (2) the NRC Staff, and (3) Intervenor.

Dated: Rockville, Maryland September 20, 2007.

Alan S. Rosenthal,

Chairman, Administrative Judge.

[FR Doc. E7–19313 Filed 9–28–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56521]

Order Cancelling the Registration of a Transfer Agent

September 25, 2007.

On October 26, 2006, notice was published in the **Federal Register** that the Securities and Exchange Commission ("Commission") intended to issue an order, pursuant to Section 17A(c)(4)(B) of the Securities Exchange Act of 1934 ("Act"),[1] cancelling the transfer agent registration of certain transfer agents.[2] For the reasons discussed below, the Commission is cancelling the registration of one of the transfer agents listed in the notice.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Catherine Moore, Special Counsel, at (202) 551–5710, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628.

Background

Section 17A(c)(4)(B) of the Act provides that if the Commission finds that any transfer agent registered with the Commission is no longer in existence or has ceased to do business as a transfer agent, the Commission shall by order cancel that transfer agent's registration. On October 26, 2006, the Commission published notice of its intention to cancel the registration of 45 transfer agents that the Commission believed were no longer in existence or had ceased doing business as transfer agents. The notice stated that at any time after November 27, 2006, which was 30 days after the notice was published in the **Federal Register**, the Commission intended to issue an order canceling the registrations of any or all of the identified transfer agents.

Gerdine & Associates (File No. 84–5820) was one of the transfer agents identified in the notice. Gerdine & Associates objected to the cancellation of its registration because it stated that it has not ceased to do business as a transfer agent. On February 1, 2007, the

[1] 15 U.S.C. 78q–1(c)(4)(B).

[2] Securities Exchange Act Release No. 54633 (October 20, 2006), 71 FR 62631 (October 26, 2006).

Commission by order cancelled the registration of the 44 other transfer agents identified in the notice, but it postponed taking action with respect to Gerdine & Associates' registration pending further inquiry.[3]

After conducting an inquiry, including a telephone interview with the representative from Gerdine & Associates, the Commission has determined that Gerdine & Associates is not in business as a transfer agent. Accordingly, the Commission is cancelling the registration of Gerdine & Associates.

Order

It is therefore ordered pursuant to Section 17A(c)(4)(B) of the Act that the registration as a transfer agent of Gerdine & Associates be and hereby is cancelled.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Nancy M. Morris,

Secretary.

[FR Doc. E7–19291 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27978; 812–13394]

Citi Investor Services, Inc. f/n/a The BISYS Group, Inc., et al.; Notice of Application and Temporary Order

September 24, 2007.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 ("Act").

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against Citi Investor Services, Inc. f/n/a The BISYS Group, Inc. ("BISYS") on July 27, 2007 by the United States District Court for the Southern District of New York (the "Injunction"), until the Commission takes final action on an application for a permanent order. Applicants have requested a permanent order.

APPLICANTS: BISYS, Heartland Investor Services, LLC, Mercantile Investment Services, Inc., ProFunds Distributors, Inc. and Victory Capital Advisers, Inc. (collectively, other than BISYS, the "BISYS Underwriter Applicants," and, together with BISYS, the "BISYS Applicants"); Citigroup Global Markets Inc. ("CGMI"), CEFOF GP I Corp. ("CEFOF"), CELFOF GP Corp. ("CELFOF"), Citibank, N.A. ("Citibank"), Citigroup Alternative Investments LLC ("Citigroup Alternative"), Citigroup Investment Advisory Services Inc. ("Citigroup Advisory"), SSBCP GP I Corp. ("SSBCP"), and SSBPIF GP Corp. ("SSBPIF", and, together with CGMI, CEFOF, CELFOF, Citibank, Citigroup Alternative, Citigroup Advisory, and SSBCP, the "Citigroup Applicants," and together with the BISYS Applicants, the "Applicants").[1]

FILING DATE: The application was filed on June 6, 2007 and amended on September 13, 2007 and September 20, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 19, 2007, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, BISYS, 105 Eisenhower Parkway, Roseland, New Jersey 07068, the BISYS Underwriter Applicants, 100 Summer Street, 15th Floor, Boston, Massachusetts, 02110, CGMI, 787 Seventh Ave., 32nd Floor, New York, New York 10019, CEFOF and CELFOF, 388 Greenwich Street, New York, New York 10013, Citibank, 153 East 53rd Street, 5th Floor, New York, New York 10043, Citigroup Alternative, 731 Lexington Avenue, 28th Floor, New York, NY 10022, Citigroup Advisory, 787 Seventh Ave., 15th Floor, New York, New York 10019, SSBCP and SSBPIF, 338 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Shannon Conaty, Senior Counsel, at (202) 551–6827, or Janet M. Grossnickle, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–8090).

Applicants' Representations

1. BISYS, a Delaware corporation, directly and through wholly-owned subsidiaries, provides products and support services to financial institutions, including insurance companies, banks and mutual funds. Each of the BISYS Underwriter Applicants is an indirect, wholly-owned subsidiary of BISYS and serves as principal underwriter for one or more registered investment companies or series thereof ("Funds").[2] Each BISYS Underwriter Applicant is registered with the Commission as a broker-dealer under section 15 of the Securities Exchange Act of 1934 ("Exchange Act").

2. On July 27, 2007, the United States District Court for the Southern District of New York entered the Injunction against BISYS in a matter brought by the Commission.[3] The Commission alleged in the complaint ("Complaint") that BISYS violated sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act and rules 12b–20, 13a–1, 13a–11 and 13a–13 thereunder when it engaged in improper accounting practices that resulted in an overstatement of BISYS's financial results for the fiscal years ended 2001 through 2003 by about $180 million. The alleged violations involved improperly recording commissions earned by companies before they were acquired by BISYS as its own revenue, the failure to adequately reserve against an aging receivable balance, improper accounting for renewal and bonus commissions, and other improper accounting entries. The Complaint alleged that the resulting inaccurate financial results were incorporated in public filings, annual reports to shareholders, press releases and offering

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which BISYS is or hereafter may become an affiliated person in the future (together with the Applicants, the "Covered Persons").

[2] Neither BISYS nor any of the BISYS Underwriter Applicants serves as investment adviser or depositor for any Fund or as principal underwriter for any registered unit investment trust ("UIT") or registered face amount certificate company.

[3] United States Securities and Exchange Commission v. The BISYS Group, Inc., 07–CIV–4010 (KMK) (S.D.N.Y. May 23, 2007).

[3] Securities Exchange Act Release No. 55220 (February 1, 2007), 72 FR 6623 (February 12, 2007).

[4] 17 CFR 200.30–3(a)(22).

documents. Thus, the Complaint alleged that BISYS violated the financial reporting, books and records, and internal controls provisions of the Exchange Act. Without admitting or denying the allegations in the Complaint, except as to jurisdiction, BISYS consented to a final judgment ("Final Judgment") that includes, among other things, the entry of the Injunction and the payment of disgorgement and prejudgment interest.

3. On August 1, 2007, Citigroup Inc. ("Citigroup") acquired BISYS (the "BISYS Acquisition"). As a result of the BISYS Acquisition, BISYS is now an affiliated person of the Citigroup Applicants, which currently serve as investment advisers, depositors or principal underwriters to Funds. Certain of the Citigroup Applicants serve as investment advisers to employees' securities companies (included in the term "Funds").

Applicants" Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered UIT or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines "affiliated person" to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that BISYS is an affiliated person of each of the other Applicants within the meaning of section 2(a)(3) of the Act. Applicants state that the entry of the Injunction resulted in Applicants being subject to the disqualification provisions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting the Applicants and the other Covered Persons from the disqualification provisions of section 9(a) of the Act. On July 27, 2007, the Applicants received a temporary conditional order from the Commission exempting them from section 9(a) of the Act with respect to the Injunction until the Commission takes final action on an application for a permanent order or, if earlier, September 24, 2007.[4]

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to the Applicants would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did not involve any of the Applicants acting in the capacity of investment adviser, sub-adviser, depositor, or principal underwriter for any Fund and, with respect to the Citigroup Applicants, occurred prior to the BISYS Acquisition, when they were not affiliated with BISYS. Except as discussed in footnote 5, Applicants state that no director, officer or employee of any of the Applicants who is or was involved in providing investment advisory or underwriting services to the Funds was involved in the conduct which forms the basis of the Injunction.[5] Applicants also state that the matters underlying the Injunction are unrelated to the Applicants' investment advisory, depository and principal underwriting activities. In addition, Applicants represent that no Funds to which any BISYS Underwriter Applicant currently provides underwriting services bought or held any securities issued by BISYS during the period of misconduct alleged in the Complaint, other than with respect to index funds and routine trade errors that were promptly corrected.

5. Applicants further represent that the inability of the Applicants to continue to serve as investment adviser, depositor or principal underwriter to the Funds would result in potentially severe hardships for the Funds and their shareholders. The BISYS Underwriter Applicants have distributed, or will distribute as soon as reasonably practical, written materials, including an offer to meet in person to discuss the materials, to the board of directors or trustees of each Fund (each, a "Board") for which the BISYS Underwriter Applicants serve as principal underwriter, including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of such Fund, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any. These written materials will concern the Final Judgment, any impact on the Funds, and the application. The Applicants will provide the Funds with all information concerning the Final Judgment and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the federal securities laws.

6. Applicants also assert that, if the Applicants were barred from serving as investment adviser, depositor or principal underwriter to the Funds, the effect on their businesses and employees would be severe. The Applicants state that they have committed substantial resources to establish an expertise in providing the services covered by section 9(a) of the Act to Funds. Applicants further state that prohibiting the Applicants from serving as investment advisers, depositors or principal underwriters to the Funds would adversely affect not only the viability of their businesses, but also the livelihoods of more than 100 employees. Applicants also state that none of the BISYS Applicants has ever previously applied for an exemption pursuant to section 9(c) of the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application, or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that Applicants have

[4] Investment Company Act Release No. 27915 (July 27, 2007).

[5] The Complaint contains general allegations relating to the conduct of former employees of the Fund Services Division of BISYS, but does not contain any specific allegations that any directors, officers or employees of any of the Applicants who is or was involved in providing underwriting services to the Funds participated in the conduct which resulted in the Injunction. To the best of the BISYS Applicants' knowledge and belief, any directors, officers or employees that allegedly participated in the conduct that resulted in the Injunction are either no longer employed by the Applicants or are not, and will not be, involved in providing investment advisory, depository or underwriting services to the Funds.

made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that the Applicants and the other Covered Persons are granted a temporary exemption from the provisions of section 9(a), effective forthwith, solely with respect to the Injunction, subject to the condition in the application, until the date the Commission takes final action on their application for a permanent order.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–19282 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27977; 812–13413]

MMA Praxis Mutual Funds, et al.; Notice of Application

September 24, 2007.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain entities excluded from the definition of investment company under section 3(c)(10) or 3(c)(11) of the Act to transfer certain classes of assets held in separate accounts to a series of a registered open-end management investment company in exchange for shares of that series.

APPLICANTS: MMA Praxis Mutual Funds ("Trust"), The Mennonite Foundation, Inc. ("MF"), Mennonite Retirement Trust ("MRT") and Mennonite Insurance Services Inc. d/b/a MMA Capital Management ("MMA").

FILING DATES: The application was filed on August 7, 2007. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 19, 2007 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549–0102; Applicants, c/o MMA Praxis Mutual Funds, 303 Broadway, Suite 1100, Cincinnati, OH 45202.

FOR FURTHER INFORMATION, CONTACT: Lewis Reich, Senior Counsel, at (202) 551–6919, or Nadya Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust is organized as a series investment company consisting of 6 series, one of which is the MMA Praxis Growth Index Fund ("Growth Index Fund" or "Fund"). The Growth Index Fund invests in equity securities intended to parallel the investment performance of the U.S. large cap growth equities market, while incorporating socially responsible investing criteria. MMA, an Indiana corporation, is an investment adviser registered under the Investment Advisers Act of 1940 ands serves as investment adviser to the Fund pursuant to an investment advisory agreement with the Trust.

2. MF, a not-for-profit corporation organized under the laws of Indiana, is excluded from the definition of investment company under the Act pursuant to Section 3(c)(10) of the Act. MF's board of directors manages and controls the business of MF. MF's portfolio securities are segregated by asset class and are held in separate accounts. Each separate account is a sub-account of MF and is not a legal entity separate from MF. One of these sub-accounts, MF Large Cap Growth Index Fund, is managed by MMA.

3. MRT, a qualified retirement plan, is excluded from the definition of investment company under the Act pursuant to Section 3(c)(11) of the Act. MRT's board of trustees manages its investment activities. MRT's portfolio securities are segregated by asset class and are held in separate accounts. Each separate account is a sub-account of MRT and is not a legal entity separate from MRT. One of these sub-accounts, MRT Large Cap Growth Index Fund, is managed by MMA. The directors/trustees of MRT and MF (MRT and MF are referred to collectively as the "Unregistered Funds") also serve as directors of Mennonite Mutual Aid, Inc., the controlling company of MMA.

4. Applicants seek relief to permit MF and MRT to transfer substantially all of the assets in MF's Growth Index Fund and MRT's Large Cap Growth Index Fund, respectively, (the "Assets") to the Growth Index Fund in exchange for shares ("Shares") of that Fund. That proposed transfer is referred to as the "Exchange".

5. The Assets of the Unregistered Funds contemplated for transfer to the Fund in the Exchange will consist of individual securities that are substantially similar to those held as investments by the Fund. The Assets will be valued by the Fund at the time of acquisition at the independent "current market price" of the securities as defined in rule 17a–7 under the Act, the same valuation procedures set forth in the Fund's registration statement. The Shares of the Growth Index Fund received in the Exchange will have an aggregate net asset value ("NAV") equal to the NAV of the Assets transferred by MF and MRT to the Fund. The Unregistered Funds and the Fund will each pay their own expenses incurred in connection with the Exchange. After the Exchange, MF's Growth Index Fund and MRT's Large Cap Growth Index Fund each will not make any investments other than investments in shares of the Fund.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from that investment company any security or other property.

2. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly controlling, controlled by, or under common control with the other person and (b) if the other person is an investment company, any investment adviser of that company. Applicants state that the Unregistered Funds and MMA may be considered to be under common control because a majority of the directors/trustees serving on the

Unregistered Funds' boards of directors/trustees also serve as directors of MMA. Applicants also state that the Unregistered Funds and the Fund may be considered to be under common control and therefore may be considered affiliated persons of each other under Section 2(a)(3) of the Act. Thus, Applicants state that the proposed Exchange may be prohibited under Section 17(a) of the Act.

3. Rule 17a–7 exempts certain purchase and sale transactions otherwise prohibited by Section 17(a) of the Act if an affiliation exists solely by reason of having a common investment adviser, investment advisers that are affiliated persons of each other, common directors, and/or common officers, provided, among other requirements, that the transaction is for no consideration other than cash. Applicants state that the relief provided by Rule 17a–7 may not be available for the Exchange because the Exchange will involve consideration other than cash (*i.e.*, Shares of the Fund). Applicants also state that the Unregistered Funds may be deemed to be affiliated with the Fund for reasons other than those set forth in Rule 17a–7.

4. Rule 17a–8 exempts certain transactions (including mergers, consolidations or purchases or sales of substantially all of the assets of a company) between registered investment companies and eligible unregistered funds, as defined in rule 17a–8 ("Eligible Unregistered Fund"). Applicants state that the relief provided by rule 17a–8 is not available for the Exchange because the Unregistered Funds are not registered investment companies or Eligible Unregistered Funds, and the Exchange does not involve substantially all of the assets of the Unregistered Funds.[1]

5. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

6. Applicants submit that the terms of the Exchange satisfy the standards set forth in Section 17(b) of the Act.

[1] Although the Exchange will involve substantially all of the assets of MF's Large Cap Growth Index Fund and MRT's Large Cap Growth Index Fund, these entities do not have an existence separate from the Unregistered Funds.

Applicants state that the board of the Trust, including a majority of the trustees who are not interested persons as defined in Section 2(a)(19) of the Act, found that participation in the Exchange is in the best interests of the Fund and that the interests of the existing shareholders of the Fund will not be diluted as a result of the Exchange. Applicants state that the Exchange will comply with the terms of paragraphs (a) (other than the cash payment requirement) through (g) of Rule 17a–7 and the provisions of Rule 17a–8 (as those provisions apply to the merger of an Eligible Unregistered Fund with a registered investment company). No brokerage commissions, fees (except for customary transfer fees, if any) or other remuneration will be paid by the Fund or the Unregistered Funds in connection with the Exchange.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

The Exchange will comply with the terms of paragraphs (a) (other than the cash payment requirement) through (g) of rule 17a–7 and the provisions of rule 17a–8 (as those provisions apply to the merger of an Eligible Unregistered Fund with a registered investment company).

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E7–19281 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56517; File No. PCAOB–2006–03]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Inspections

September 25, 2007.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), notice is hereby given that on December 20, 2006, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "SEC" or "Commission") the proposed rule changes described in Items I and II below, which items have been prepared by the Board. On May 31, 2007, the Board amended its filing because certain of the information described in the original filing had changed. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule

On December 19, 2006, the Board adopted amendments to its rules related to inspections. The proposed amendments include a new paragraph (d) added to existing Rule 4003 and include technical amendments to nonsubstantive points in existing rules 4006 and 4009. The text of the proposed amendments are set out below. Language added by these amendments is in italics. Deleted paragraph references are in brackets. Other text in Section 4 of the Board's Rules, including notes to the Rules, remains unchanged and is indicated by "* * * * * *" in the text below.

SECTION 4. INSPECTIONS

* * * * *

Rule 4003. Frequency of Inspections

* * * * *

(d) Notwithstanding paragraph (b) of this Rule, with respect to any registered public accounting firm that became registered in 2003 or 2004—

(1) this Rule does not require the first inspection of the firm sooner than the fourth calendar year following the first calendar year in which the firm, while registered, issued an audit report or played a substantial role in the preparation or furnishing of an audit report; and

(2) this Rule does not require the second inspection of the firm sooner than the fifth calendar year following the first calendar year in which the firm, while registered, issued an audit report or played a substantial role in the preparation or furnishing of an audit report.

* * * * *

Rule 4006. Duty to Cooperate With Inspectors

Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection. Cooperation shall include, but is not limited to, cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act, to—

([1]*a*) provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and

([2]*b*) provide information by oral interviews, written responses, or otherwise.

* * * * *

Rule 4009. Firm Response to Quality Control Defects

* * * * *

(d) The portions of the Board's inspection report that deal with criticisms of or potential defects in quality control systems that the firm has not addressed to the satisfaction of the Board shall be made public by the Board—

* * * * *

(2) upon the expiration of the period in which the firm may seek Commission review of any Board determination made under paragraph ([b]*c*) of this rule, if the firm does not seek Commission review of the Board determination;

* * * * *

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

(a) Purpose

Section 104 of the Act requires the Board to conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with the Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers. The Board has adopted an amendment to its Rule 4003 to temporarily adjust minimum inspection frequency requirement applicable to certain firms. The Board has adopted technical amendments to its Rules 4006 and 4009 to correct non-substantive points. The proposed amendments are discussed below.

Section 104(b)(1)(B) of the Act requires the Board to conduct an inspection, at least once every three years, of each registered firm that regularly provides audit reports for 100 or fewer issuers, and Section 104(b)(2) of the Act authorizes the Board to adopt rules adjusting that frequency. In 2003, the Board adopted Rule 4003(b), which provides that the Board will conduct inspections, on a triennial basis, not only of each firm that regularly provides audit reports for 100 or fewer issuers, but also of any firm that issues any audit report or that play a substantial role in the preparation or furnishing of an audit report.

In the course of inspection planning, including in connection with the Board's budget process, the Board identified a way in which a temporary adjustment to Rule 4003 would, over time, maximize the Board's ability to allocate its inspection resources more evenly, consistently, and effectively year-to-year. The issue arises because the first three years of inspections, 2004 to 2006, coincided with the Board's initial growth period and, as a consequence, the resources available for and devoted to the inspections of firms with 100 or fewer issuer audit clients increased from year to year. The resources available in each year necessarily informed the extent of the inspection work performed in that year, including with respect to both the numbers of firms inspected and the size of firms inspected.[1] This resulted in a year-to-year fluctuation that, because of the minimum frequency requirements of Rule 4003(b), the Board would to some extent be locked into repeating in succeeding three-year periods.

To avoid that consequence, the Board is adding to Rule 4003 a new paragraph that will temporarily adjust aspects of the inspection cycle requirement. Paragraph (d) will allow the Board to approach long-term inspection planning with the flexibility to eliminate the fluctuation generated in the start-up cycle, including the flexibility to make adjustments that will result in a relatively consistent, from year to year, mix of firms in terms of the size and nature of audit practice.[2] Paragraph (d) accomplishes that result by providing that, with respect to firms that became registered in 2003 or 2004,[3] (1) the Board need not conduct the firm's first inspection sooner than the fourth year after the firm, while registered, first issues an audit report or plays a substantial role, and (2) the Board need not conduct the firm's second inspection sooner than the fifth year after the firm, while registered, first issues an audit report or plays a substantial role.

Even with this adjustment, the Board expects that each U.S. firm that issued an original audit report (as distinct from a consent to use a previously issued audit report) in 2003 or 2004 after registering with the Board will have its first inspection within the three-year period after first issuing an original audit report. The flexibility provided by the adjustment would come into play principally with respect to the timing of the second inspection of some of those firms, the timing of the first two inspections of some non-U.S. firms, and the timing of inspections of firms that play a substantial role but do not issue audit reports. The adjustment would have no continuing effect on the timing of any inspections after the second inspections of firms that registered in 2003 and 2004, and would have no effect on the timing of any inspection of any firm that registered after 2004.

It is important to note that Rule 4003 does not limit the Board's authority to conduct inspections at any time, and that registered firms' own obligations are not affected by Rule 4003 or the amendment. Rule 4003 establishes a minimum inspection frequency governing how the Board carries out its inspection program. Rule 4003 does not preclude the Board from inspecting any firm more frequently than the schedule set out in the rule. A firm's obligation is to cooperate in any Board inspection at any time that the Board determines to inspect the firm, regardless of the provisions of Rule 4003.

The temporary adjustment to the inspection frequency requirement is consistent with the purposes of the Act, the public interest, and the protection of investors. The adjustment will facilitate the reduction of certain year-to-year fluctuations in the inspection program, which otherwise could interfere with the Board's ability to implement a program consistently and effectively with relatively stable resources from

[1] In 2004, the Board inspected 91 firms with 100 or fewer issuer audit clients. In 2005, the Board inspected 272 such firms. In 2006, the Board inspected 163 such firms. Because variations in the nature and size of firms' audit practices result in different inspection resource requirements, mere comparison of the numbers of inspected firms does not reflect fully the related resource issues.

[2] This point should not be understood to suggest that the Board envisions rigid adherence to a fixed triennial inspection schedule for each firm once a particular year-to-year mix of firms is established. For a variety of reasons—including to address specific risks or to enhance the value of the inspection process by reducing the predictability of the timing of any firm's next inspection—the Board may sometimes inspect a firm sooner than three years after the firm's previous inspection.

[3] On October 22, 2003, it became unlawful for any U.S. public accounting firm to issue, or to play a substantial role in the preparation or furnishing of, an audit report with respect to any issuer unless the firm was registered with the Board. The same registration requirement took effect for non-U.S. firms on July 19, 2004. *See* Section 102(a) of the Act and PCAOB Rule 2100.

year to year. The adjustment will accomplish this while delaying only a relatively small portion of inspections, and delaying them only for a short period.

The Board adopted Rule 4003(d) before obtaining public comment because of the nature of the rule, which involves a temporary adjustment, for administrative and programmatic reasons, to an element of an existing rule to which the Board is not making any permanent change. Nevertheless, the Board invited public comment on Rule 4003(d), and the Board provided that Rule 4003(d) would expire on June 30, 2007 unless the Board, after considering any public comment, acted to adopt the rule for a longer period. The Board received two comment letters, each expressing general support for Rule 4003(d) and neither raising any issues concerning the rule. On May 24, 2007, the Board approved retaining Rule 4003(d) indefinitely beyond the tentative June 30, 2007 expiration date.

The Board has also adopted technical amendments to two aspects of the rules relating to inspections. In Rule 4006, the Board is revising the numbering of the paragraphs from "(1)" and "(2)" to "(a)" and "(b)" to conform to the convention in the Board's rules generally. In Rule 4009(d)(2), the Board is correcting a cross-reference. Rule 4009(d)(2)'s cross-reference to "paragraph (b) of this rule" dates to the Board's originally proposed Rule 4009. The substance of paragraph (b) in the proposed rule was moved to paragraph (c) in the final rule adopted by the Board, and the cross-reference in paragraph (d)(2) should have been revised to cross-reference paragraph (c) at that time. The Board has now corrected that cross-reference.

(b) Statutory Basis

The statutory basis for the proposed rule is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board 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. With respect to the firms subject to an inspection requirement, the proposed rules impose no burden beyond the burdens clearly imposed and contemplated by the Act, and the proposed rules do not change the obligations of those firms as already set out in the Act and in existing Board rules.

C. Board's Statement on Comments on the Proposed Rule Received From Members, Participants or Others

The Board solicited comment on Rule 4003(d) when the Board adopted that rule on December 19, 2006. Since the filing of Form 19b–4 on December 20, 2006, the Board has received two comment letters on Rule 4003(d). Each comment letter expressed general support for Rule 4003(d), and neither comment letter raised any significant issues about the rule change. The Board did not solicit or receive comment on the other proposed rule changes described in Section I above.

III. Date of Effectiveness of the Proposed Rule 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 as (i) 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 Board 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 requirements of Title I of 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/pcaob.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number PCAOB 2006–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number PCAOB 2006–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/pcaob/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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number PCAOB–2006–03 and should be submitted on or before October 22, 2007.

By the Commission.

Nancy M. Morris,

Secretary

[FR Doc. E7–19275 Filed 9–28–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56516; File No. PCAOB–2007–03]

Public Company Accounting Oversight Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adjusting Implementation Schedule of Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles

September 25, 2007.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), notice is hereby given that on July 24, 2007, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "SEC" or "Commission") the proposed rule change described in Items I and II below, which items have been prepared by the Board. The PCAOB has designated the proposed rule change as "constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule" under Section 19(b)(3)(A)(i) of the Securities

Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the Act) and Rule 19b–4(f)(1) thereunder, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule

The PCAOB is filing with the SEC an adjustment of the implementation schedule for Rule 3523, Tax Services for Persons in Financial Reporting Oversight Roles. Specifically the Board will not apply Rule 3523 to tax services provided on or before April 30, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins. The PCAOB is not proposing any textual changes to the Rules of the PCAOB by this filing.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule and discussed any comments it received on the proposed rule. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

(a) Purpose

On July 26, 2005, the Board adopted certain rules related to registered public accounting firms' provision of tax services to public company audit clients. As part of this rulemaking, the Board adopted Rule 3523, which provides that a registered firm, subject to certain exceptions, is not independent of an audit client if the firm, or an affiliate of the firm, provides tax services during the audit and professional engagement period to a person in, or an immediate family member of a person in, a financial reporting oversight role at an audit client. This rule was intended to address concerns related to auditor independence when auditors provide personal tax services to individuals who play a direct role in preparing the financial statements of public company audit clients. Rule 3523 was approved by the Securities and Exchange Commission ("SEC" or "Commission") on April 19, 2006.

Consistent with the SEC's independence rules,[1] the phrase "audit and professional engagement period" is defined to include two discrete periods of time. The "audit period" is the period covered by any financial statements being audited or reviewed.[2] The "professional engagement period" is the period beginning when the firm either signs the initial engagement letter or begins audit procedures, whichever is earlier, and ends when either the company or the firm notifies the SEC that the company is no longer that firm's audit client.[3]

On April 3, 2007, the Board issued a concept release to solicit comment about the possible effect on a firm's independence of providing tax services to a person covered by Rule 3523 during the portion of the audit period that precedes the beginning of the professional engagement period and other practical consequences of applying the restrictions imposed by Rule 3523 to that portion of the audit period.[4] The Board also adjusted the implementation schedule for Rule 3523, as it applies to tax services provided during the period subject to audit but before the professional engagement period.[5]

The Board received 13 comment letters on the concept release. Commenters included auditors, state certified public accountant societies, and one investor. The majority of the commenters recommended that the Board amend Rule 3523 to exclude the portion of the audit period that precedes the beginning of the professional engagement period. On July 24, 2007, the Board proposed an amendment to Rule 3523 to exclude the portion of the audit period that precedes the beginning of the professional engagement period, as well as a new ethics and independence rule regarding communication with audit committees.

The Board has determined to further adjust the implementation schedule for Rule 3523 to allow sufficient time for consideration of commenters' views. Specifically, the Board will not apply Rule 3523 to tax services provided on or before April 30, 2008, when those services are provided during the audit period and are completed before the professional engagement period begins.[6]

(b) Statutory Basis

The statutory basis for the proposed rule change is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Board's Statement on Comments on the Proposed Rule Received From Members, Participants or Others

The Board did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (as incorporated, by reference, into Section 107(b)(4) of the Act) and paragraph (f) of Rule 19b-4 thereunder because of its designation by the PCAOB as "constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule." At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with the requirements of Title I of 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/pcaob.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number PCAOB–2007–03 on the subject line.

[1] 17 CFR 210.2–01(f)(5).

[2] Rule 3501(a)(iii)(1).

[3] Rule 3501(a)(iii)(2).

[4] *See* PCAOB Release No. 2007–002 (April 3, 2007).

[5] *See id.*, at 7. Specifically, the Board stated that Rule 3523 will not apply to tax services provided on or before July 31, 2007, when those services are provided during the audit period and are completed before the professional engagement period begins.

[6] This will apply regardless of whether there is an engagement in process on July 31, 2007.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number PCAOB–2007–03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/pcaob.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 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number PCAOB–2007–03 and should be submitted on or before October 22, 2007.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E7–19274 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56503; File No. SR–Amex–2007–97]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Changes In the Name and Investment Objective to the PowerShares DB Precious Metals Fund, the PowerShares DB Gold Fund, and the PowerShares DB Silver Fund

September 24, 2007.

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 August 23, 2007, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On September 17, 2007, Amex submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue to trade the shares ("Shares") of each of the PowerShares DB Precious Metals Fund, the PowerShares DB Gold Fund, and the PowerShares DB Silver Fund (collectively, the "Funds"), each with a revised name and investment objective. The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 29, 2006, the Commission approved the listing and trading of the Shares of each of the Funds.[3] The Shares represent beneficial ownership interests in each corresponding Master Fund's[4] net assets, consisting solely of the common units of beneficial interests of the DB Precious Metals Master Fund, the DB Gold Master Fund, and the DB Silver Master Fund, as applicable. Each of the foregoing Master Funds primarily holds futures contracts on the commodities comprising (1) the Deutsche Bank Liquid Commodity Index—Optimum Yield Precious Metals Excess Return™, (2) the Deutsche Bank Liquid Commodity Index—Optimum Yield Gold Excess Return™, and (3) the Deutsche Bank Liquid Commodity Index—Optimum Yield Silver Excess Return™ (each, an "Underlying Index," and collectively, the "Underlying Indexes"), respectively. Other holdings of the Funds include cash and U.S. Treasury securities for deposit with futures commission merchants as margin and other high-credit-quality, short-term fixed-income securities.

The Exchange seeks to continue trading of the Shares based on changes to the names of each of the Funds. Specifically, the proposal contemplates changes in the names of the Funds so that the PowerShares DB Precious Metals Fund, the PowerShares DB Gold Fund, and the PowerShares DB Silver Fund would be changed to the PowerShares DB Ultra Precious Metals Fund, the PowerShares DB Ultra Gold Fund, and the PowerShares DB Ultra Silver Fund, respectively.[5] In addition, Amex seeks to continue trading of the Shares based on a modified investment objective for each Fund. The Exchange represents that the modifications in the names and investment objective of the

[3] *See* Securities Exchange Act Release No. 55029 (December 29, 2006), 72 FR 806 (January 8, 2007) (SR–Amex–2006–76) (approving the listing and trading of the Shares of each of the Funds); *see also* Securities Exchange Act Release No. 54770 (November 16, 2006), 71 FR 67935 (November 24, 2006) (SR–Amex–2006–76) (providing notice of the proposal to list and trade the Shares of the Funds).

[4] The DB Multi-Sector Commodity Master Trust (the "Master Trust") was formed as a Delaware statutory trust in seven separate series (each, a separate "Master Fund"). Each Master Fund is one series of the Master Trust.

[5] E-mail from Candice Fordin, Assistant General Counsel, Amex, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated September 18, 2007 (clarifying the modifications to the names of the Funds) ("Amex Confirmation").

Funds are the only changes proposed for each of the Funds.[6]

Currently, the investment objective of the Funds and the Master Funds is to reflect the performance of the corresponding Underlying Index, *less* any expenses of the operations of such Fund and the related Master Fund. Pursuant to this proposal, each Fund's investment objective would be revised to seek investment results that correspond, before fees and expenses, to twice (200%) the daily performance of the respective Underlying Index. The revised investment objective would make the Funds and Master Funds "Leveraged Funds." Each of the Funds, if successful in meeting its objective, should gain, on a percentage basis, approximately twice as much as the Fund's Underlying Index when the prices of the futures contracts comprising such Underlying Index increase on a given day, and should lose approximately twice as much when such prices decline on a given day. The modification of the investment objective is expected to provide Fund shareholders with a leveraged exposure to a Fund's Underlying Index, but will also result in the Master Fund becoming twice as volatile as the performance of the Underlying Index. This revised investment objective for each Fund would create funds that are substantially similar to other leveraged funds that are currently listed and traded on the Exchange.[7]

As a result of the modification to the investment objective of the Funds, the Exchange represents that, while DB Commodity Services LLC (the "Managing Owner") will attempt to minimize any "tracking error" between the investment results of a particular Fund and the performance (and specified multiple thereof) of its Underlying Index, certain factors may tend to cause the investment results of a Fund to vary from the performance of the relevant Underlying Index or specified multiple thereof.[8] The Funds are expected to be highly correlated to the specified multiple of each applicable Underlying Index and investment objective (0.85 or greater).[9] In each case, the Funds are expected to have a daily tracking error of less than 5% (500 basis points) relative to the specified multiple of the performance of the relevant Underlying Index.

In addition, the Managing Owner in connection with the management of the Master Funds generally will seek to maintain positions in futures contracts with an aggregate notional value equal to double the value of the Master Fund's holdings of U.S Treasury securities and other high-credit-quality, short-term fixed-income securities. As a result, the Funds generally will have a leverage ratio of 2:1. The leverage ratio of the Master Fund will vary based on changes in the prices of the futures contracts held by the Master Fund. If the Master Fund's leverage ratio moves below 1.8:1 or above 2.2:1, then the Master Fund will rebalance its futures contracts to return to a 2:1 leverage ratio. The leverage ratio of the Master Fund will be calculated on each business day after the close of trading on Amex based on the settlement prices of the futures contracts held by the Master Fund. The Managing Owner believes that maintaining each Master Fund's leverage ratio between 1.8:1 and 2.2:1 will enable each Fund to achieve its investment objective.

A special meeting of the shareholders of the Funds is planned to be held on October 9, 2007 to vote on the proposal to revise each Funds' investment objective and name. The Funds' proposal will become effective upon the affirmative vote of a majority of the shareholders, excluding the Shares held by the Managing Owner and its affiliates.[10] The Managing Owner will, within a reasonable time thereafter, distribute a prospectus supplement indicating the change in name and investment objective to purchasers and current holders of the Funds.[11] Based on each Fund's and each Master Fund's assets under management and trading volume of the Shares, as well as competing products in the market, the Managing Owner believes that each Fund should better serve the needs of current and future investors if the respective Master Fund provides investors with an exposure to changes in the Underlying Index of twice or 200%, whether positive or negative.

Upon approval of the shareholders of the Funds, the Exchange will, in an Information Circular to Exchange members and member organizations prior to the commencement of trading, inform members and member organizations of the change in names and investment objective to the Funds.[12] The Information Circular will further inform members and member organizations of the prospectus supplement delivery requirements that apply to the Funds. In addition, the Information Circular will set forth the requirements relating to Commentary .05 to Amex Rule 411 (Duty to Know and Approve Customers). Specifically, the Information Circular will remind members of their obligations in recommending transactions in the Shares so that members have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member, and (2) that the customer can evaluate the special characteristics, and is able to bear the financial risks, of such investment. In connection with the suitability obligation, the Information Circular will also provide that members make reasonable efforts to obtain the following information: (a) The customer's financial status; (b) the customer's tax status; (c) the customer's investment objectives; and (d) such

[6] The Exchange states that the remaining structure of the Funds, which is more fully described in the notice and approval order for File No. SR–Amex–2006–76, will remain the same. *See supra* note 3.

[7] *See, e.g.*, Securities Exchange Act Release Nos. 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR–Amex–2006–101) (approving the listing and trading of shares of funds of the ProShares Trust); 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41) (approving the listing and trading of shares of additional funds of the ProShares Trust); and 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (approving the listing and trading of shares of funds of the xtraShares Trust).

[8] The Exchange states that several factors may cause a Fund to vary from the relevant Underlying Index and investment objective including: (1) A Fund's expenses, including brokerage fees (which may be increased by high portfolio turnover) and the cost of the investment techniques employed by that Fund; (2) less than all of the securities in the benchmark Underlying Index being held by a Fund and securities not included in the benchmark Underlying Index being held by a Fund; (3) an imperfect correlation between the performance of instruments held by a Fund, such as futures contracts, and the performance of the underlying securities in the cash market; (4) bid-ask spreads (the effect of which may be increased by portfolio turnover); (5) holding instruments traded in a market that has become illiquid or disrupted; (6) a Fund's Share prices being rounded to the nearest cent; (7) changes to the benchmark Underlying Index that are not disseminated in advance; (8) the need to conform a Fund's portfolio holdings to comply with investment restrictions or policies or regulatory or tax law requirements; and (9) early and unanticipated closings of the markets on which the holdings of a Fund trade, resulting in the inability of the Fund to execute intended portfolio transactions.

[9] Correlation is the strength of the relationship between (1) the change in a Fund's net asset value and (2) the change in the benchmark Underlying Index (investment objective). The statistical measure of correlation is known as the "correlation coefficient." A correlation coefficient of +1 indicates a perfect positive correlation, while a value of −1 indicates a perfect negative (inverse) correlation. A value of zero would mean that there is no correlation between the two variables

[10] Although the proposal of the Funds will become effective upon the affirmative vote of a majority of the shareholders of such Funds, the Commission notes that Amex's proposal will not become effective until the Commission has granted its approval pursuant to Section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

[11] *See* Amex Confirmation, *supra* note 5.

[12] *See id.*

other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer. In addition, the Information Circular will disclose that the procedures for purchases and redemptions of Shares are described in each Fund's prospectus and that Shares are not individually redeemable, but are redeemable only in prescribed aggregations or multiples thereof.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. 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 Amex 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.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

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–Amex–2007–97 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–97. 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–97 and should be submitted on or before October 22, 2007.

[15] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. E7–19270 Filed 9–28–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56506; File No. SR–Amex–2007–99]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Deletion of Certain Rules That the Amex has Determined Are Obsolete, Outdated, or Unnecessary

September 24, 2007.

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 14, 2007, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared substantially by the Amex. The Amex has submitted the proposed rule change under Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to delete certain rules that it has determined are obsolete, outdated, and/or unnecessary.

The text of the proposed rule change is available at *http://www.amex.com*, the principal offices of the Amex, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

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 Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to delete certain rules that the Exchange has determined to be obsolete, outdated, and/or unnecessary. Specifically, the Exchange proposes to delete the following rules:

Rule 3(e)—AEMI. This rule provides that no member or member organization shall quote a nominal market for a security dealt in on the Exchange. A nominal market is quoted for the purpose of establishing a valuation and not as an invitation to trade. Because the firm quote rule [5] provides that no broker-dealer may place an order to buy or sell unless he is willing to purchase or sell at the stated price and conditions, the Exchange no longer permits quoting a nominal market. Therefore, this rule is obsolete and superseded by the firm quote rule and Amex Rule 958A, both of which relate to the obligation to maintain firm quotes.

Amex Rule 8. This rule provides that no member or member organization may bear for his own account or relieve his principal from stamp taxes. Stamp taxes are no longer imposed and, therefore, the Amex believes that the rule is no longer necessary or applicable.

Amex Rule 102. This rule prohibits members and member organizations from bidding for, offering for sale, purchasing, or selling on the Exchange privileges to receive or deliver securities or dividends. No member or member organization on the Exchange deals in privileges because it is an illegal, out-of-date practice; therefore, the Amex believes that the rule is no longer necessary or applicable.

Amex Rule 116. This rule provides for an Opening Automated Report Service ("OARS"), which is a system designed to facilitate the efficient and accurate processing of eligible orders received by the Exchange prior to the opening or reopening of trading in designated securities. The rule describes the function the service will perform for each designated security. The rule also provides the order, execution, reporting, and recordkeeping aspects of the system. The rule is obsolete because OARS is no longer in use due to the automation of equity opening procedures.

Amex Rule 322. This rule provides that a member or member organization maintaining customer offices must display a certificate of membership in the Exchange, which is prepared by the Exchange and remains the property of the Exchange. The Amex no longer issues certificates of membership, so the rule is obsolete.

Emerging Company Marketplace. The Exchange also proposes to delete from the Amex Company Guide the standards relating to the Emerging Company Marketplace ("ECM"). In May 1995, the Exchange determined to discontinue the listing of new companies on the ECM. Companies listed on the ECM at that time were permitted to continue to be listed there, subject to all the rules that applied to ECM issues. There are no longer any companies listed pursuant to the ECM rules, and, therefore, the Exchange believes it is appropriate at this time to remove the ECM rules from the Amex Company Guide.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and with Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] Because the Amex has designated the foregoing proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[10] The proposal shall become operative 30 days from the date of filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2007–99 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

[5] 17 CFR 242.602.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] Rule 19b–4(f)(6)(iii) also requires a self-regulatory organization to provide the Commission with written notice of its intention to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. The Exchange requested the Commission to waive the five-day pre-filing requirement. The Commission hereby grants that request.

All submissions should refer to File Number SR–Amex–2007–99. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Amex–2007–99 and should be submitted on or before October 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56515; File No. SR–Amex–2007–101]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Trade Currency Trust Shares of Seven Currency Trusts Pursuant to Unlisted Trading Privileges

September 24, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on August 29, 2007, the American Stock Exchange LLC (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trade shares (the "Shares") of the following trusts: (1) CurrencyShares℠ Australian Dollar Trust; (2) CurrencyShares℠ British Pound Sterling Trust; (3) CurrencyShares℠ Canadian Dollar Trust; (4) CurrencyShares℠ Japanese Yen Trust; (5) CurrencyShares℠ Mexican Peso Trust; (6) CurrencyShares℠ Swedish Krona Trust; and (7) CurrencyShares℠ Swiss Franc Trust (each a "Trust" and collectively, the "Trusts") pursuant to unlisted trading privileges ("UTP").[3]

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, substantially set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to trade the Shares of the Trusts under Amex Rule 1200B–AEMI pursuant to UTP. Amex Rule 1200B–AEMI defines a Currency Trust Share as: "a security that (i) Is issued by a trust that holds a specified non-U.S. currency deposited with the trust; (ii) when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency; and (iii) pays beneficial owners interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust." Further, Commentary .01 to Amex Rule 1200B–AEMI categorizes a Currency Trust Share as a Trust Issued Receipt that holds a specified non-U.S. currency or currencies deposited with the trust. Amex Rule 1201B entitled, Designation of an Underlying Foreign Currency, authorizes the Exchange to trade Currency Trust Shares pursuant to UTP.

The Commission previously approved the listing and trading of the Shares on the New York Stock Exchange ("NYSE")[4] and they are currently trading on the NYSE Arca Marketplace ("NYSE Arca") pursuant to UTP.[5] The Commission also previously approved the trading of the CurrencyShares℠ Euro Trust (f/k/a Euro Currency Trust) on Amex, pursuant to UTP.[6] Rydex Specialized Products LLC, d/b/a/ "Rydex Investments," is the sponsor of the Trusts ("Sponsor") and is responsible for, among other things, overseeing the performance of The Bank of New York ("Trustee") and the Trusts' principal service providers, including those that prepare the

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rydex Investments, the Trusts' Sponsor, represents that the Trusts are not investment companies registered under the Investment Company Act of 1940.

[4] *See* Securities Exchange Act Release No. 52843 (November 28, 2005), 70 FR 72486 (December 5, 2005) (SR–NYSE 2005–65) (order granting accelerated approval for NYSE to list and trade shares of the CurrencyShares℠ Euro Trust); Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR–NYSE–2006–35) (order granting accelerated approval for the NYSE to list and trade shares of the CurrencyShares℠ Australian Dollar Trust, British Pound Sterling Trust, Canadian Dollar Trust, Mexican Peso Trust, Swedish Krona Trust, and Swiss Franc Trust); Securities Exchange Act Release No. 55268 (February 9, 2007), 72 FR 7793 (February 20, 2007) (SR–NYSE–2007–03) (order granting accelerated approval for NYSE to list and trade shares of the CurrencyShares℠ Japanese Yen Trust) (the "NYSE Listing Orders").

[5] *See* Securities Exchange Act Release No. 54043 (June 26, 2006), 71 FR 37967 (July 3, 2006) (SR–NYSEArca–2006–26) (order granting accelerated approval for NYSEArca to UTP trade shares of the CurrencyShares℠ Australian Dollar Trust, British Pound Sterling Trust, Canadian Dollar Trust, Mexican Peso Trust, Swedish Krona Trust, and Swiss Franc Trust); Securities Exchange Act Release No. 55320 (February 21, 2007), 72 FR 8828 (February 27, 2007) (SR–NYSEArca–2007–15) (order granting accelerated approval for NYSEArca to UTP trade shares of the CurrencyShares℠ Japanese Yen Trust).

[6] *See* Securities Exchange Act Release No. 53059 (January 5, 2006), 71 FR 2072 (January 12, 2006) (SR–Amex–2005–128).

financial statements. The Trustee is responsible for the day-to-day operation of the Trusts. Additionally, the London branch of JPMorgan Chase Bank, N.A., is the depository for the Trusts ("Depository"), and Rydex Distributors, Inc. is the distributor for the Trusts ("Distributor"). The Sponsor, Trustee, Depository, and Distributor are not affiliated with the Exchange or one another, with the exception that the Sponsor and Distributor are affiliated.

Investment Objective of the Trusts

The investment objective of the Trusts is for the Shares to reflect the price of the applicable foreign currency owned by the specific Trust, plus accrued interest, less the expenses and liabilities of such Trust. The Shares are intended to provide institutional and retail investors with a simple, cost-effective means of hedging their exposure to a particular foreign currency and otherwise implement investment strategies that involve foreign currency (*e.g.*, diversify more generally against the risk that the U.S. dollar ("USD") would depreciate).

Each of the Trusts' assets consist, primarily, of the applicable foreign currency on demand deposit in two deposit accounts maintained by the Depository: (i) A primary deposit account which earns interest, and (ii) a secondary deposit account which does not earn interest. The secondary deposit account is used only in connection with mid-month creations and redemptions of blocks of 50,000 Shares ("Baskets"). The secondary account is used to account for interest that has been earned on the primary deposit account during the month, but not yet paid, and to receive interest earned on the primary deposit account, pay Trust expenses, and distribute any excess interest to shareholders on a monthly basis.

The Trusts do not hold any derivative products. Each Share represents a proportional interest in the applicable Trust's portfolio, consisting of a demand deposit of foreign currency, as adjusted for interest and expenses. The Sponsor expects that the price of a Share will fluctuate in response to fluctuations in the price of the applicable foreign currency and that the price of such Share will reflect accumulated interest as well as the estimated accrued, but unpaid, expenses of the Trust.

Additional information about the Trusts and the Currency Trust Shares is also available at the Sponsor's Web site, *http://www.currencyshares.com.*

Dissemination of Information About the Currency Trust Shares

Quotations for and last-sale information regarding the Shares are disseminated through the Consolidated Tape Association ("CTA"). The Trustee calculates the net asset value ("NAV") of the respective Trusts, each business day. The NAV is expressed in USD and is based on the Noon Buying Rate as determined by the Federal Reserve Bank of New York ("FRB–NY"). If the Noon Buying Rate has not been determined and announced by 2:00 p.m., Eastern Time ("ET"), then the most recent FRB–NY determination of the Noon Buying Rate is used to determine the NAV of the respective Trusts unless the Trustee, in consultation with the Sponsor, determines that such price is inappropriate to use as the basis for such valuation. The Trustee also determines the NAV per Share, which equals the NAV of the respective Trust divided by the number of its outstanding Shares. The Sponsor publishes on its Web site, *http://www.currencyshares.com*, the NAV and NAV per Share for each Trust on each day that the NYSE is open for regular trading.[7] A detailed description of the Trusts and the calculation methodology for the NAV, as well as a general review of the foreign exchange industry, is provided in the NYSE Listing Orders.[8]

In order to provide updated information relating to the Trusts for use by investors, professionals, and persons wishing to create or redeem Baskets of the Shares, the NYSE disseminates, through the facilities of CTA, the intraday indicative value ("IIV")[9] every 15 seconds during the trading hours for the Shares of 9:30 a.m. to 4:15 p.m. ET.

As described in the NYSE Listing Orders, distributions are made whenever interest deposited in the secondary deposit account exceeds the sum of the Sponsor's fee for the prior month plus other Trust expenses, if any. In such instance, the Trustee would direct that the excess be converted into USDs at a prevailing market rate and the Trustee would distribute that amount as promptly as practicable to Shareholders on a pro rata basis, in accordance with the number of Shares they own.

Trading Rules

The Exchange deems Currency Trust Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The trading hours for the Shares on the Exchange will be 9:30 a.m. to 4:15 p.m. ET.

Amex Rule 190 generally precludes certain business relationships between an issuer and the specialist in the issuer's securities. Exceptions in the rule permit specialists in the Shares to enter into Creation Unit (*i.e.*, Basket) transactions to facilitate the maintenance of a fair and orderly market. Commentary .04 to Amex Rule 190 specifically applies to Currency Trust Shares listed on the Exchange, including the Shares. Commentary .04 states that nothing in Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

Stop and Stop Limit Orders

Amex Rule 154–AEMI, "Orders in AEMI," paragraph (c)(ii), provides that stop and stop limit orders to buy or sell a security the price of which is derivatively priced based upon another security or index of securities, may be elected by a quotation, as set forth in subparagraphs (c)(ii)(1)–(4) of Rule 154–AEMI. The Exchange has designated Currency Trust Shares, including the Shares, as eligible for this treatment.[10]

Prospectus Delivery

Commentary .02 to Amex Rule 1200B–AEMI, requires that the Exchange's members and member organizations provide to all purchasers of newly issued Currency Trust Shares a prospectus for the series of Currency Trust Shares.

Trading Halts

Amex will cease trading in the Shares if: (i) The primary market stops trading the Shares because of a regulatory halt akin to a halt based on Amex Rule 117 and/or a halt because dissemination of the IIV has ceased; or (ii) the primary market delists the Shares.[11]

[7] The Web site also makes available a variety of other relevant information about the Currency Trust Shares including: the spot price for each applicable foreign currency; the daily FRB–NY Noon Buying Rate; premium/discount information, calculated on a 20-minute delay; and the Basket Amount for each applicable foreign currency, among other things.

[8] *See supra* note 4.

[9] The IIV is sometimes referred to as the intraday optimized portfolio value ("IOPV").

[10] *See* Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, (noting the Exchange's designation of equity derivative securities as eligible for such treatment under Rule 154, Commentary .04(c)).

[11] Amex has represented that it plans to submit a proposed rule filing to the Commission that will

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares. Amex will rely on its existing surveillance procedures governing Currency Trust Shares.

Information Circular

In connection with the trading of the Shares, Amex will inform its members, in an Information Circular, of the special characteristics and risks associated with trading of the Shares such as, a description of the Trusts and their respective Shares, how the Shares are created and redeemed in Baskets (*e.g.*, that Trust Shares are not individually redeemable), foreign country laws and restrictions, applicable Exchange rules, dissemination information, trading information, and a discussion of any relief provided by the Commission or the staff from any rules under the Act. Additionally, in the Information Circular, the Exchange will advise its members to deliver a prospectus to investors purchasing Shares of the Trusts prior to, or concurrently with, the confirmation of a transaction in such Shares. The Information Circular will also remind members of their suitability obligations, including Amex Rule 411, which imposes a duty of the due diligence on its members and member firms to learn the essential facts relating to every customer prior to the trading of the Shares.

2. Statutory Basis

The Exchange states that the proposed rule change is consistent with Section 6(b) of the Exchange Act [12] in general and furthers the objectives of Section 6(b)(5) of the Exchange Act [13] in particular in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities; and, in general to protect investors and the public interest. In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Act [14] because the Exchange deems the Currency Trust Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange states that written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Amex–2007–101 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–101. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2007–101 and should be submitted by October 22, 2007.

IV. Commission Findings and Order Granting Accelerated Approval of a Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[15] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[16] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[17] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[18] The Commission notes that it previously approved the listing and trading of the Shares on NYSE and the trading of the Shares on NYSE Arca pursuant to UTP.[19] The Commission also finds that the proposal is consistent with Rule 12f–5 under the

codify Amex's representations regarding its procedures for trading halts for various derivative securities that trade on the Exchange. *See* e-mail from Andrea H. Williams, Assistant General Counsel, Amex, to Rahman Harrison, Special Counsel, Division of Market Regulation, Commission, dated September 24, 2007.

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78s(b)(5).

[14] 17 CFR 240.12f–5.

[15] In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78l(f).

[18] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[19] *See supra* notes 4 and 5.

Act,[20] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[21] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the CTA and the Consolidated Quotation System. In addition, an IIV for each Fund, updated to reflect changes in currency exchange rates, is calculated by NYSE and published via the facilities of the Consolidated Tape Association on a 15-second delayed basis throughout the trading hours for the Shares. Moreover, information about the prices of the currencies underlying the Funds is publicly available from a number of sources.

The Commission also believes that the proposal appears reasonably designed to preclude trading of the Shares when transparency is impaired. Amex has represented that it will cease trading in the Shares if the listing market stops trading the Shares because of a regulatory halt similar to a halt based on Amex Rule 117 and/or a halt because the IIV is not being calculated or disseminated.

In support of this proposal, the Exchange has made the following additional representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.

2. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

3. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction.

This approval order is based on the Exchange's representations.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of the Shares on NYSE and the trading of the Shares on NYSE Arca pursuant to UTP are consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[22] that the proposed rule change (SR–Amex–2007–101), be and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Nancy M. Morris,

Secretary.

[FR Doc. E7–19273 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 240.12f–5.

[21] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56504; File No. SR–NASD–2007–055]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Order Approving Proposed Rule Change Relating to Interpretative Material 9216, Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2)

September 24, 2007.

I. Introduction

On July 24, 2007, the National Association of Securities Dealers, Inc. ("NASD") (n/k/a Financial Industry Regulatory Authority, Inc. ("FINRA")) [1] filed with the Securities and Exchange Commission ("Commission" or "SEC") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act") [2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Interpretative Material 9216 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2)) ("IM–9216") to expand the list of violations eligible for disposition under NASD's Minor Rule Violation Plan ("MRVP"). The proposed rule change was published for comment in the **Federal Register** on August 7, 2007.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

In connection with the recently approved plan to consolidate the member regulation operations of NASD and the NYSE Group, Inc. into a single organization ("Transaction"),[5] NASD proposed to amend IM–9216 to expand the list of violations eligible for

[1] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to the Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 56175 (July 31, 2007), 72 FR 44201 ("Notice").

[5] On July 26, 2007, the Commission approved amendments to NASD's By-Laws to implement governance and related changes to accommodate the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56145 (July 26, 2007). The date of closing of the Transaction was July 30, 2007.

disposition under NASD's MRVP to include certain NYSE rules that pertain to the regulation of member firm conduct.[6] The proposed rule change would amend NASD's MRVP to include those Incorporated NYSE Rules currently enumerated in NYSE's MRVP. This would permit FINRA, during the interim period until the adoption of a consolidated rulebook, to impose a fine for minor rule violations by a Dual Member of the Incorporated NYSE Rules in lieu of commencing disciplinary proceedings. As discussed in Release No. 34–56147, NASD is not proposing to incorporate, among other rules, the NYSE disciplinary rules or related interpretations, including NYSE's MRVP as set forth in NYSE Rule 476A (Imposition of Fines for Minor Violation(s) of Rules).[7]

The proposed amendments to IM–9216 also would specify the applicability of the rules listed therein to various members of FINRA. Specifically, any Dual Member (including any persons affiliated with such member) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM–9216 that applies to such member or person; provided, however, that any Dual Member that was not also a member of NASD as of the date of closing of the Transaction and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) would only be subject to a fine under Rule 9216(b) with respect to the following rules listed in IM–9216: any NYSE rule, Exchange Act rule, NASD By-Law or Schedule to By-Laws, or the NASD Rule 8000 Series. In addition, any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under Rule 9216(b) with respect to any rule listed in IM–9216, with the exception of the NYSE rules.

NASD is not proposing to adopt the provision in NYSE's MRVP that establishes a $5,000 maximum fine that may be imposed under NYSE's MRVP for minor violations of NYSE rules. Rather, FINRA would continue to apply the $2,500 maximum fine level under NASD's MRVP in determining fine levels for minor violations of either an NASD or NYSE rule included in NASD's MRVP.[8]

The proposed rule change also would delete from IM–9216 references to NASD rules that have been rescinded.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities association.[9] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(2) of the Exchange Act[10] in that it will permit FINRA to be so organized to carry out the purposes of the Exchange Act and to enforce compliance by FINRA members and persons associated with its members with the Exchange Act, the rules and regulations thereunder, and FINRA rules. The Commission also finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act[11] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposed rule change is consistent with Section 15A(b)(7) of the Exchange Act[12] in that it will provide that FINRA members and persons associated with its members will be appropriately disciplined for violations of the Exchange Act, the rules and regulations thereunder, and FINRA rules. The Commission also finds the proposed rule change consistent with Section 15A(b)(8) of the Exchange Act[13] in that it furthers the statutory goals of providing a fair procedure for the disciplining of members and persons associated with members.

As a result of the proposed rule change, FINRA would be able to impose a fine for minor rule violations with respect to the Incorporated NYSE Rules that currently are enumerated in NYSE's MRVP. The proposed rule change is designed to ensure that Dual Members will have substantially the same set of regulatory obligations immediately following the closing date of the Transaction that such members had prior to the closing of the Transaction until the member conduct rules of the NASD and NYSE are consolidated into a single set of FINRA rules. The proposed rule change provides a reasonable means of addressing violations of both NASD and NYSE rules that do not rise to the level of requiring formal disciplining proceedings, while providing greater flexibility in handling certain violations. The Commission expects that FINRA will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

[6] Until the adoption of a consolidated rulebook that would reduce to one the two sets of rules currently applicable to members of both the NASD and NYSE ("Dual Members"), NASD has proposed to incorporate into FINRA's rulebook certain NYSE Rules that pertain to the regulation of member firm conduct ("Incorporated NYSE Rules"). *See* Securities Exchange Act Release No. 56147 (July 26, 2007) (SR–NASD–2007–054, Exhibit 5) (incorporating certain NYSE Rules relating to member firm conduct into FINRA's rulebook) ("Release No. 34–56147"). As noted in Release No. 34–56147, the Incorporated NYSE Rules apply solely to FINRA members that are Dual Members on or after the date of closing of the Transaction. NASD represented that FINRA will work expeditiously to consolidate the rules that apply to its member firms. *See* Notice, *supra* note 4. The Incorporated NYSE Rules will apply solely to Dual Members until such time as FINRA adopts, subject to Commission approval, consolidated rules applicable to all of its members.

[7] NASD is not proposing to incorporate NYSE's MRVP (NYSE Rule 476A), because NYSE Rule 476A contains procedures that would conflict with the finding of a minor rule violation by FINRA. For example, NYSE Rule 476A permits a person against whom a fine is imposed to contest the NYSE's fine determination by, among other things, appealing to the NYSE board of directors.

[8] Rule 19d–1(c)(2) under the Exchange Act, 17 CFR 240.19d–1(c)(2), provides that any disciplinary action taken by a self-regulatory organization ("SRO") against any person of a rule of the SRO that has been designated as a minor rule violation pursuant to a plan is not considered "final" for purposes of Rule 19d–1(c)(1) under the Exchange Act, 17 CFR 240.19d–1(c)(2), if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the SRO with respect to the matter. SROs are permitted to report such minor rule violations (where the fine does not exceed $2,500) to the Commission on a periodic, rather than immediate, basis. In addition, members are not required to report "minor rule violations" on the Forms BD, U4 or U5 (as such term is defined on the forms). These forms provide that a rule violation may be designated as "minor" under a plan approved by the Commission if, among other things, the sanction imposed consists of a fine of $2,500 or less. *See also* Securities Exchange Act Release No. 40193 (July 10, 1998), 63 FR 39338 (July 22, 1998) (Order Granting Approval to Proposed Rule Change Relating to Fines for Disruptive Action on the Options Floor) (SR-PCX–98–21) (stating in the context of amendments to the MRVP of the Pacific Exchange, Inc's ("PCX") (now NYSE Arca, Inc.) that, as noted in PCX's MRVP, pursuant to Securities Exchange Act Release No. 30958, any person or organization found in violation of a minor rule under an MRVP is not required to report such violation on Form BD, provided that, among other things, the sanction imposed consists of a fine not exceeding $2,500).

[9] 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).

[10] 15 U.S.C. 78*o*–3(b)(2).

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78*o*–3(b)(7).

[13] 15 U.S.C. 78*o*–3(b)(8).

The proposed rule change also provides that Dual Members will be subject to FINRA's disciplinary procedures, including FINRA's current $2,500 maximum fine level for minor rule violations of either an NASD or NYSE rule included in FINRA's MRVP. While there are some distinctions between NASD's and NYSE's rules, both sets of rules applicable to the disciplinary process were previously approved by the Commission as consistent with the Exchange Act, generally following notice and comment.[14] Accordingly, although Dual Members and their associated persons no longer would be subject to NYSE's disciplinary procedures with respect to the Incorporated NYSE Rules, but to FINRA's instead, the Commission finds that the proposed rule change should help ensure greater consistency in the administration of the disciplinary process for FINRA and its members, as well as in the related reporting obligations for minor violations of rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[15] that the proposed rule change (SR–NASD–2007–055), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Nancy M. Morris,

Secretary.

[FR Doc. E7–19271 Filed 9–28–07; 8:45 am]

BILLING CODE 8011–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Actions Taken at September 12, 2007 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Commission Actions.

SUMMARY: At its regular business meeting on September 12, 2007 in Binghamton, New York, the Commission: (1) Convened a panel session on New York State's involvement in the Chesapeake Bay Program, (2) approved a proposed rulemaking action to amend the consumptive use provisions of 18 CFR Part 806 relating to agricultural water use, and (3) approved a grant and four contracts. It also conducted a public hearing to approve certain water resources projects and rescind one docket approval. See the **SUPPLEMENTARY INFORMATION** section below for more details on these actions.

DATES: September 12, 2007.

ADDRESSES: Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423; ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Deborah J. Dickey, Secretary to the Commission, telephone: (717) 238–0422, ext. 301; fax: (717) 238–2436; e-mail: *ddickey@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: The September 12th agenda included a panel session focusing on New York State's involvement in the Chesapeake Bay Program and the active steps that New York is taking to participate in the effort to restore the Bay, including the implementation of a tributary strategy and other measures such as sewage treatment plant improvements, improved farming practices and constructed wetlands.

In regards to the proposed rulemaking action to amend the agricultural consumptive use provisions of 18 CFR part 806, notice thereof will be published in the **Federal Register** and in state notice publications. In addition, a public hearing will be scheduled and the public comment period will run until November 15, 2007. Comments may be submitted to Richard A. Cairo, General Counsel (e-mail: *rcairo@srbc.net*), Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, PA 17102, or Deborah J. Dickey, Secretary to the Commission (e-mail: *ddickey@srbc.net*) at the same address.

The Commission also convened a public hearing and took the following actions:

Public Hearing—Projects Approved

1. Project Sponsor and Facility: Town of Erwin (Wells 2 and 3, and ID Park Well 1), Steuben County, N.Y. Modification of groundwater approval (Docket No. 20070602).

2. Project Sponsor: South Slope Development Corporation. Project Facility: Song Mountain Ski Resort, Town of Preble, Cortland County, N.Y. Approval for surface water withdrawal of up to 3.705 mgd, when available, from an unnamed tributary to Crooked Lake, groundwater withdrawal (Well MW–3) of 0.960 mgd as a 30-day average, and consumptive water use of up to 0.815 mgd.

3. Project Sponsor: AES Westover, LLC. Project Facility: AES Westover Generating Station, Town of Union and Village of Johnson City, Broome County, N.Y. Approval for surface water withdrawal of up to 97.300 mgd from the Susquehanna River and consumptive water use of up to 1.748 mgd.

4. Project Sponsor and Facility: Town of Cohocton (Well 3), Steuben County, N.Y. Approval of groundwater withdrawal of 0.072 mgd as a 30-day average.

5. Project Sponsor: Northampton Fuel Supply Company, Inc. Project Facility: Loomis Bank Operation, Hanover Township, Luzerne County, Pa. Modification of consumptive water use approval (Docket No. 20040904).

6. Project Sponsor: PPL Susquehanna, LLC. Project Facility: Susquehanna Steam Electric Station, Salem Township, Luzerne County, Pa. Approval for groundwater withdrawal of 0.125 mgd as a 30-day average, surface water withdrawal of up to 66.000 mgd from the Susquehanna River, modification of a consumptive water use approval of up to 48.000 mgd, and acceptance of a settlement offer from the Project Sponsor in the amount of $500,000 to resolve a compliance issue at the Project Facility (Docket No. 19950301).

7. Project Sponsor: Bionol Clearfield LLC. Project Facility: Bionol-Clearfield, Clearfield Borough, Clearfield County, Pa. Approval for surface water withdrawal of up to 2.505 mgd from the West Branch Susquehanna River and consumptive water use of up to 2.000 mgd.

8. Project Sponsor and Facility: Walker Township Water Association (Snydertown Well 3), Walker Township, Centre County, Pa. Approval for groundwater withdrawal of 0.523 mgd as a 30-day average.

9. Project Sponsor and Facility: Bedford Township Municipal Authority (Bowman Wells 1 and 2), Bedford Township, Bedford County, Pa. Modification of groundwater withdrawal approval (Docket No. 19990502).

10. Project Sponsor and Facility: Dillsburg Area Authority (Well 7), Carroll Township, York County, Pa. Approval for groundwater withdrawal of 0.460 mgd as a 30-day average.

11. Project Sponsor: PPL Brunner Island, LLC. Project Facility: Brunner Island Steam Electric Station, East

[14] *See* Securities Exchange Act Release Nos. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (order approving NYSE's Rule 476A—Imposition of Fines for Minor Violation(s) of Rules); and 32383 (May 28, 1993), 58 FR 31768 (June 4, 1993) (order approving establishment of NASD's Minor Rule Violations Plan).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

Manchester Township, York County, Pa. Approval for surface water withdrawal of up to 835.000 mgd from the Susquehanna River and consumptive water use of up to 23.100 mgd.

Public Hearing—Project Rescinded:

1. Project Sponsor: Northampton Fuel Supply Company, Inc. (Docket No. 20040903). Project Facility: Prospect Bank Operation, Plains Township, Luzerne County, Pa.

Authority: Public Law 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: September 19, 2007.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E7–19292 Filed 9–28–07; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2007–29351]

FAA Order 2150.3B, Compliance and Enforcement Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of revised agency order and withdrawal of Notice of Enforcement Policy.

SUMMARY: This notice announces the availability of FAA Order 2150.3B. Compliance and Enforcement Program. The order contains the policies, procedures, and guidelines for the Federal Aviation Administration's compliance and enforcement program. The order articulates the FAA's philosophy for using various remedies, including education, corrective action, informal action, remedial training, administrative action, and legal enforcement action, to address noncompliance with statutory and regulatory requirements enforced by the FAA. It provides for the public a written statement of the Administrator's policy guidance for imposing sanction for violations of such requirements. The notice also announces the withdrawal of a Notice of Enforcement Policy regarding intentionally false or fraudulent statements concerning the disclosure of alcohol-related or drug-related convictions, or other similar convictions, on applications for airman medical certificates.

ADDRESSES: This order is available to the public on the Internet at *http://rgl.faa.gov*. Interested persons may obtain copies by contacting the Office of the Chief Counsel, Enforcement Division, AGC–300, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7158.

SUPPLEMENTARY INFORMATION: The new policies and procedures in Order 2150.3B become effective in October 1, 2007. The sanctions guidance in Order 2150.3B applies to violations occurring on or after October 1, 2007. For violations occurring before October 1, 2007, FAA enforcement personnel apply the sanction guidance principles in FAA Order 2150.3A using up to the statutory maximum sanction amount in effect at the time of the violation.

Order 2150.3B provides new sanction policy for intentionally false or fraudulent statements concerning the disclosure of alcohol-related or drug-related conviction is, or other similar convictions, on applications for airman medical certificates. The Notice of Enforcement Policy found at 54 FR 15144; April 14, 1989 provides the sanctions less than revocation in certain cases in involving such intentionally false or fraudulent statements. The FAA rescinds the previous sanction policy. As provided in Order 2150.3B, it is now the FAA's general sanctions policy that the making of intentionally false or fraudulent statements in violation of FAA statutory or regulatory requirements will result in the revocation of all certificates held by a certificate holder.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Dominik, Office of the Chief of Counsel, Enforcement Division (AGC–300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7158, e-mail *Cynthia.Dominik@faa.gov*.

Issued in Washington, DC, on September 25, 2007.

Peter J. Lynch,

Assistant Chief Counsel for Enforcement.

[FR Doc. 07–4823 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2007–29352]

Notice of Request for Revision of a Currently Approved Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the revision of the currently approved information collection: 49 CFR Part 611 Major Capital Investment Projects.

DATES: Comments must be submitted before November 30, 2007.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*. Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie McVey, Office of Planning

and Environment, (202) 366–2573, or e-mail: *Stephanie.McVey@dot.gov*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 CFR Part 611 Major Capital Investment Projects (OMB Number: 2132–0561).

Background: On August 10, 2005, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was enacted. Sections 3011(d)(5) and 3011(e)(6) of SAFETEA–LU require FTA to issue regulations on the manner in which candidate projects for capital investment grants and loans for new fixed guideway systems and extensions to existing systems ("New Starts," "Small Starts," respectively) will be evaluated and rated for purposes of the FTA Capital Investment Grants and Loans program for New and Small Starts under 49 U.S.C. Section 5309. The Advanced Notice of Proposed Rulemaking (ANPRM) for this regulation was issued on January 30, 2006, (71 FR 22841). The Notice of Proposed Rulemaking (NPRM) was issued on August 3, 2007, (72 FR 43328).

FTA has a longstanding requirement to evaluate proposed projects against a prescribed set of statutory criteria. The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) established in law a set of criteria that proposed projects had to meet in order to be eligible for federal funding. The requirement for summary project ratings has been in place since 1998. Thus, the requirements for project evaluation and data collection for New Starts projects are not new, nor have they changed extensively since their inception. One addition included in SAFETEA–LU is the Small Starts program. The Small Starts program enables projects with a lesser total capital cost and smaller requested share of New Starts funds to progress through a simplified and streamlined project evaluation and data collection process. In general, though, the information used by FTA for New and Small Starts project evaluation and rating purposes should arise as a part of the normal planning process.

FTA has been collecting project evaluation information from project sponsors under the existing OMB approval for this program (OMB No. 2132–0561). However, due to modifications in project evaluation criteria for the New Starts program and the addition of the Small Starts program, it became apparent that some information required under this proposed rule might be beyond the scope of ordinary planning activities.

The proposed rule creates additional requirements for before-and-after data collection for purposes of Government Performance and Results Act reporting as a condition of obtaining a Full Funding Grant Agreement (FFGA) or a Project Construction Grant Agreement (PCGA).

Respondents: State and local government.

Estimated Annual Burden on Respondents: Approximately 212 hours for each of the 178 respondents.

Estimated Total Annual Burden: 38,760 hours.

Frequency: Annual.

Issued: September 25, 2007.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E7–19315 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Early Scoping Notice for an Alternatives Analysis of Proposed Transit Improvements in the Westside Extension Transit Corridor of Los Angeles, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Early Scoping Notice.

SUMMARY: The Federal Transit Administration (FTA) and the Los Angeles County Metropolitan Transportation Authority (LACMTA) issue this early scoping notice to advise other agencies and the public that they intend to explore, in the context of the Council on Environmental Quality's early scoping process, alternative means of improving transit capacity and service in the Westside Extension Transit Corridor of Los Angeles, California. The early scoping process is part of a planning Alternatives Analysis (AA) required by 49 United States Code (U.S.C.) 5309, that will lead to the selection of a Locally Preferred Alternative by the LACMTA Board and Southern California Association of Governments (SCAG). Early scoping meetings have been planned and are announced below.

The Westside Extension Transit Corridor is east-west oriented and includes portions of five jurisdictions: the cities of Los Angeles, West Hollywood, Beverly Hills, Santa Monica, as well as portions of unincorporated County of Los Angeles. The study area generally extends north to the base of the Santa Monica Mountains along Hollywood, Sunset and San Vicente Boulevards, east to the Metro Rail stations at Hollywood/Highland and Wilshire/Western, south to Pico Boulevard, and west to the Pacific Ocean. The Alternatives Analysis will study transit extensions from the terminus of the Metro Rail Purple Line at the Wilshire/Western station or the Metro Rail Red Line at the Hollywood/Highland station to downtown Santa Monica.

After planning the Alternatives Analysis and selection of a Locally Preferred Alternative (LPA), the LPA will then be the subject of the appropriate environmental review under the National Environmental Policy Act (NEPA). If the selected LPA would have significant impacts, an environmental impact statement (EIS), combined with a California environmental impact report (EIR) would be initiated with a Notice of Intent in the **Federal Register** and final public scoping of the EIS/EIR. In particular, the purpose and need for the project, the range of alternatives to be considered in the EIS/EIR, the environmental and community impacts to be evaluated, and the methodologies to be used, would be subject to public and interagency review and comment, in accordance with 23 U.S.C. 139.

DATES: Written comments on the scope of the planning Alternatives Analysis, including the alternatives to be considered and the impacts to be assessed, should be sent to LACMTA at the address below by November 1, 2007. See **ADDRESSES** below for the address to which written public comments may be sent. Early scoping meetings to accept public comments on the scope of the Alternatives Analysis will be held on the following dates:

- Thursday, October 11, 2007, from 6 p.m. to 8 p.m. Pan Pacific Recreation Center, 7600 Beverly Boulevard, Los Angeles, CA 90036.
- Thursday, October 16, 2007, from 6 p.m. to 8 p.m. Wilshire United Methodist Church, 4350 Wilshire Blvd, Los Angeles, CA 90010.

• Wednesday, October 17, 2007, from 6 p.m. to 8 p.m. Beverly Hills Public Library Auditorium, 444 North Rexford Drive, Beverly Hills, CA 90210.

• Thursday, October 18, 2007, from 6 p.m. to 8 p.m. Santa Monica Public Library, 601 Santa Monica Blvd., Santa Monica, CA 90401.

The draft purpose and need for the project and the initial set of alternatives proposed for study will be presented at these meetings. The buildings and facilities used for the scoping meetings are accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in a scoping meeting should contact Ms. Jody Litvak, LACMTA at 213–922–1240 or *Litvakj@metro.net.*

Scoping materials will be available at the meetings and are also available on the LACMTA Web site at *http://www.metro.net/westside.* Hard copies of the scoping materials are available from Ms. Jody Litvak, LACMTA at 213–922–1240 or *Litvakj@*metro.net.

An interagency scoping meeting will be held on Wednesday, October 10, 2007, from 3 p.m. to 4:30 p.m. at the Sheriff's Station Briefing Room, 720 N. San Vicente Blvd, West Hollywood, CA 90069. Representative of Native American tribal governments and of all Federal, State, and local agencies that may have an interest in any aspect of the project will be invited by phone letter, or e-mail.

ADDRESSES: Written comments should be sent to Mr. David Mieger, AICP, Project Manager and Deputy Executive Officer, Los Angeles County Metropolitan Transportation Authority, One Gateway Plaza, Los Angeles, CA 90012, phone 213–922–3040, e-mail *miegerd@metro.net.* The locations of the early scoping meetings are given above under **DATES.**

FOR FURTHER INFORMATION CONTACT: Mr. Ray Tellis, Team Leader, Los Angeles Metropolitan Office, Federal Transit Administration, 888 South Figueroa Street, Suite 1850, Los Angeles, CA 90017, phone 213–202–3950, e-mail *ray.tellis@dot.gov.*

SUPPLEMENTARY INFORMATION:

Early Scoping

The FTA and LACMTA invite all interested individuals and organizations, public agencies, and Native American tribes to comment on the scope of analyses, including the purpose and need for transit improvements in the corridor, the alternatives to be studied, and the impacts to be evaluated in the planning Alternatives Analysis. Comments at this time should focus on the purpose and need for transit improvements in the corridor; alternatives that may be less costly or have less environmental impacts while achieving similar transportation objectives; and the identification of any significant social, economic, or environmental issues relating to the alternatives.

Purpose and Need for Action: The project purpose is to improve public transit service and mobility in the Westside Extension Corridor. The project would provide the cities of Los Angeles, West Hollywood, Beverly Hills, and Santa Monica with improved fixed-guideway east-west transit service between the existing terminus of the Metro Red Line and Metro Purple Lines near Western Avenue in the City Los Angeles and Ocean Avenue in the City of Santa Monica. Possible western extensions from the Metro Purple Line would generally follow Wilshire Boulevard (from the Metro Purple Line Wilshire/Western Station). Possible extensions from the Metro Red Line would generally follow Santa Monica Boulevard (from the Metro Red Line Hollywood/Highland Station). The overall goal of the proposed project is to improve mobility in the Westside Extension Corridor by extending the benefits of the existing Metro Red/Metro Purple Line rail and bus investments beyond the current terminus. Mobility problems and potential improvements for this corridor have been well documented in many studies, including numerous Metro Red Line planning studies, Southern California Association of Governments (SCAG) planning studies, the Mid-City/Westside Transit Corridor Re-Evaluation/Major Investment Study (2000), the Metro Rapid Demonstration Project (2000), the Mid-City/Westside Transit Corridor Draft EIS/EIR (2001), the American Public Transportation Association Review of Wilshire Corridor Tunneling (2005), and in the Southern California Association of Governments Regional Transportation Plan (2004). These studies can be reviewed at the Dorothy Peyton Gray Transportation Library located on the 15th Floor or Metro Headquarters, One Gateway Plaza, Los Angeles, CA 90012. Additional considerations supporting the project's need include:

• The concentration of activity centers and destinations in the Westside Extension Corridor;

• Increasing traffic congestion on the highway network throughout the Westside Extension Corridor, which has led to public and political support for a high-capacity transit alternative to the automobile;

• The "Centers Concept" Land Use Policy of the City of Los Angeles which is transit-based;

• The existing concentration of transit supportive land uses in the Westside Extension Corridor.

• The high population and employment densities in the Westside Extension Corridor.

• Local redevelopment plans that are highly supportive of, and dependent on, high capacity transit services in the Westside Extension Corridor.

• The existing high ridership levels on bus lines in the Westside Extension Corridor.

• Significant transit dependent population in the Westside Extension Corridor.

• Forecasts of significant future population and employment growth in the Westside Extension Corridor.

• Existing and future travel demand patterns that demonstrate a strong and growing demand for high-capacity transit in the Westside Extension Corridor.

• Emerging travel patterns associated with a job-rich study area that has led to significant westbound congestion during the morning rush hours and corresponding eastbound congestion during the evening rush hours.

• Local policy directed toward travel demand management and transit solutions rather than the expansion of the street and highway network.

Alternatives

The Westside Extension Transit Corridor Study proposes to extend transit from the terminus of the Metro Purple Line at the Wilshire/Western station or the Metro Red Line at the Hollywood/Highland station to downtown Santa Monica. Two primary alignments have been considered historically:

• Wilshire Boulevard Alignment from Wilshire/Western station via Wilshire Boulevard to Santa Monica Boulevard and west on Santa Monica Boulevard to Century City, then transitioning back to Wilshire Boulevard and proceeding along Wilshire Boulevard near Westwood Boulevard along Wilshire Boulevard to downtown Santa Monica (approximately 13 miles).

• Santa Monica Boulevard Alignment starting from the Hollywood/Highland Metro Red Line proceeding west on Hollywood Boulevard and transitioning to Santa Monica Boulevard to Century City, then transitioning to Wilshire Boulevard near Westwood Boulevard and proceeding along Wilshire Boulevard to downtown Santa Monica (approximately 12.5 miles).

Heavy Rail Transit, the transit mode that is currently used in the Metro Red Line and Metro Purple Line subway system, is being considered. It normally follows an underground configuration although ground-surface and aerial configurations may also be considered in some locations. Other transit modes, including Bus Rapid Transit (BRT) and other forms of rail transit, may also be considered. Possible station sites along the Wilshire Boulevard Alignment are Wilshire/Crenshaw, Wilshire/La Brea, Wilshire/Fairfax, Wilshire/La Cienega, Wilshire/Beverly Dr., Century City, Santa Monica/Westwood, Wilshire/Westwood Village/I–405, Wilshire/Bundy, Wilshire/26th St., Wilshire/16th St., and Wilshire/4th St. (12 stations). Possible station sites along the Santa Monica Boulevard Alignment are Sunset/Fairfax or Santa Monica/Fairfax, Santa Monica/La Cienega or Santa Monica/San Vicente, Santa Monica/Beverly, Santa Monica/Rodeo, Century City, Santa Monica/Westwood, Wilshire/Westwood Village/I–405, Wilshire/Bundy, Wilshire/26th St., Wilshire/16th St., and Wilshire/4th St. (11 stations).

Future No-Build Alternative—The study will consider the transportation and environmental effects if no new major transit investments beyond those that have already been planned are implemented in this corridor. This alternative will include the highway and transit projects in the current Metro Long Range Transportation Plan and the 2030 Southern California Association of Governments Regional Transportation Plan. For purposes of the Alternatives Analysis, the major fixed guideway investments under study for the Exposition Transit Corridor Phase 2 and Crenshaw Transit Corridor projects would not be included in the Future No-Build Alternative. The completion of the Metro Rapid Bus Program would be included as well as possible additional feeder bus networks to serve the region's major activity centers.

Transportation System Management Alternative (TSM)—The study will consider the effects of modest improvements in the highway and transit systems beyond those in the Future No-Build Alternative. The TSM Alternative would evaluate low-cost enhancements to the Future No-Build Alternative and would emphasize transportation system upgrades, such as intersection improvements, minor road widening, traffic engineering actions, bus route restructuring, shortened bus headways, expanded use of articulated buses, reserved bus lanes, expanded park-and-ride facilities, express and limited-stop service, signalization improvements, and timed-transfer operations.

In addition to the alternatives described above, other alternatives identified through the early scoping process will be considered for potential inclusion in the Alternatives Analysis. Alternative modes, vertical or horizontal alignments, or station locations may emerge from the early scoping process.

FTA Procedures

Early scoping is an optional element of the National Environmental Policy Act (NEPA) process that is particularly useful in situations where, as here, a proposed action (the locally preferred alternative) has not been identified and alternative modes and major alignment variations are under consideration in a broadly-defined corridor. While NEPA scoping normally follows issuance of a notice of intent, which describes the proposed action, it "may be initiated earlier, as long as there is appropriate public notice and enough information available on the proposal so that the public and relevant agencies can participate effectively." See the Council on Environmental Quality's "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," 46 FR 18026, 18030 (1981). In this case, the available information is more than adequate to permit the public and relevant agencies to participate effectively in early scoping and the planning Alternatives Analysis.

LACMTA may seek New Starts funding for the proposed project under 49 U.S.C. 5309 and will, therefore, be subject to New Starts regulation (49 Code of Federal Regulations [CFR] Part 611). The New Starts regulation requires a planning Alternatives Analysis that leads to the selection of a Locally Preferred Alternative by LACMTA and the inclusion of the locally preferred alternative in the long-range transportation plan adopted by the Southern California Association of Governments. The planning Alternatives Analysis will examine alignments, technologies, station locations, costs, funding, ridership, economic development, land use, engineering feasibility, and environmental factors in the corridor. The New Starts regulation also requires the submission of certain project-justification information in support of a request to initiate preliminary engineering, and this information is normally developed during the Alternatives Analysis. At the conclusion of the Alternatives Analysis, a locally preferred alternative—the "proposed action"—will be determined, as well as the appropriate NEPA process—an environmental assessment or environmental impact statement—to be undertaken for the proposed action. If preparation of an environmental impact statement is warranted, a notice of intent will be published in the **Federal Register** and the scoping of the EIS/EIR will be completed by soliciting and considering comments on the purpose and need for the proposed action, the range of alternatives to be considered in the EIS/EIR, and the potentially significant environmental and community impacts to be evaluated in the EIS/EIR. In conjunction with this final scoping of the EIS/EIR and consistent with provisions of 23 U.S.C. 139, invitations will be extended to other Federal and non-Federal agencies that may have an interest in this matter to be participating agencies. A plan for coordinating public and agency participation in the environmental review process and for commenting on the issues under consideration at various milestones of the process will be prepared and posted on the on the LACMTA Web site at *http://www.metro.net/westside.*

Issued on September 26, 2007.

Leslie T. Rogers,

Regional Administrator, Region IX, Federal Transit Administration.

[FR Doc. E7–19363 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: PHMSA–1998–4957]

Request for Public Comments and Office of Management and Budget Approval of an Existing Information Collection (2137–0618); Correction

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice; correction.

SUMMARY: FHMSA published a notice in the **Federal Register** on September 11, 2007, requesting comments on an information collection for underwater periodic inspections. The notice contains an incorrect annual cost estimate.

FOR FURTHER INFORMATION CONTACT: Roger Little at (202) 366–4569, or by e-mail at *roger.little@dot.gov.*

In the **Federal Register** of September 11, 2007, 72 FR 51901, on page 51902, in the first column, correct "*Estimated*

Cost: $6,475." to read "*Estimated Cost:* $87,413."

Issued in Washington, DC on September 25, 2007.

Florence L. Hamn,

Director of Regulations, Office of Pipeline Safety.

[FR Doc. E7–19293 Filed 9–28–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 458X)]

BNSF Railway Company—Abandonment Exemption—in Logan County, CO

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 0.44 miles of rail line, extending between milepost 229.66 and milepost 230.10, near Sterling, Logan County, CO. The line traverses United States Postal Service Zip Code 80751.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 31, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 22, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr., 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed both an environmental report and a historic report that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 5, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by October 1, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 25, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–19298 Filed 9–28–07; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (Omnibus)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to incorporate veterans' perception of and satisfaction with the overall drug therapy benefits and process within VA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *mary.stout@va.gov.* Please refer to "OMB Control No. 2900–2900–New (Omnibus)" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct

or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Omnibus Medication Survey.

OMB Control Number: 2900–New (Omnibus).

Type of Review: New collection.

Abstract: The survey will enable VA Pharmacy Benefits Management Strategy Health Care Group (PMB) in gathering patients' perspective in the formulary decisions involving the safety and effectiveness of medications used in the VA system. PBM will use the data collected to determine how medications used in the VA system impact the patient's quality of care; frequency of side-effects of specific medication and drug combination; and the patient's satisfaction with the overall drug therapy benefit package and process within VHA.

Affected Public: Individuals or Households.

Estimated Annual Burden: 6,667 hours.

Estimated Average Burden per Respondent: 40 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 10,000.

Dated: September 24, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19300 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to verify beneficiaries receiving Restored Entitlement Program for Survivors (REPS) benefits are actually in enrolled in an approved school.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0394" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of School Attendance—REPS, VA Form 21–8926.

OMB Control Number: 2900–0394.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8926 is used to verify beneficiaries receiving REPS benefits based on schoolchild status are in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The program pays benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. Beneficiaries over age 18 and under age 23 must be enrolled full-time in an approved post-secondary school at the beginning of the school year to continue receiving REPS benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 1,200.

Dated: September 21, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19304 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0660]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This

notice solicits comments on information needed to obtain contact information on individuals residing in a remote location.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0660" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Contact Information, VA Form 21–30.

OMB Control Number: 2900–0660.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–30 is used to locate individuals when contact information cannot be obtained by other means or when travel funds may be significantly impacted in cases where the individual resides in a remote location and is not home during the day or when visited. VA uses the data collected determine whether a fiduciary of a beneficiary is properly executing his or her duties.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

Dated: September 21, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19305 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0116]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed from penal institutions regarding incarcerated VA beneficiaries.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0116" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice to Department of Veterans Affairs of Veteran or Beneficiary Incarcerated in Penal Institution, VA Form 21–4193.

OMB Control Number: 2900–0116.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–4193 is used to determine whether a beneficiary's VA compensation or pension rate should be reduced or terminated when he or she is incarcerated in a penal institution in excess of 60 days after conviction.

Affected Public: Federal Government, and State, local or tribal Government.

Estimated Annual Burden: 416 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,664.

Dated: September 21, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19306 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0216]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a claimant's entitlement to accrued benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to "OMB Control No. 2900–0216" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Accrued Amounts Due a Deceased Beneficiary, VA Form 21–601.

OMB Control Number: 2900–0216.

Type of Review: Extension of a currently approved collection.

Abstract: The information collected on VA Form 21–601 is use to determine a claimant's entitlement to accrued benefits that was due to a deceased veteran but not paid prior to the veteran's death. Each survivor claiming a share of the accrued benefits must complete a separate VA Form 21–601; however if there is no living survivors who are entitled on the basis of relationship, accrued benefits may be payable as reimbursement to the person or persons who bore the expenses of the veteran's last illness and burial expenses.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,300 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 4,600.

Dated: September 21, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19307 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0702]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to provide National Provider Identifier number to non-VA health care providers seeking reimbursement claims.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov*. Please refer to "OMB Control No. 2900–0702" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mary Stout (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for National Provider Identification Number, VA Form 10–0449A

OMB Control Number: 2900–0702.

Type of Review: Extension of a currently approved collection.

Abstract: Health care providers for veterans in the private sector (non-VA providers) are requesting local VA medical centers to provide National Provider Identifier (NPI) numbers for VA facilities and VA clinicians who have referred patients to them. NPI numbers are used by non VA providers to request reimbursement for medical care provided to veterans.

Affected Public: Business or other for profit.

Estimated Total Annual Burden: 10 hours.

Estimated Average Burden per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200.

Dated: September 21, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19308 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0114]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on the information needed to determine the validity of a common law marriage.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to nancy.kessinger@va.gov. Please refer to "OMB Control No. 2900–0114" in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Public Law 104–13; 44 U.S.C. 3501—3521, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Marital Relationship, VA Form 21–4170.

OMB Control Number: 2900–0114.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4170 is completed by individuals claiming to be common law widows/widowers of deceased veterans and by veterans and their claimed common law spouses to establish marital status. VA uses the information collected to determine whether a common law marriage was valid under the law of the place where the parties resided at the time of the marriage or under the law of the place where the parties resided when the right to benefits accrued.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,708 hours.

Estimated Average Burden Per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,500.

Dated: September 21, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–19309 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Homeless Veterans will be held on October 16–17, 2007 in Pavillion B at the Four Points by Sheraton Hotel San Diego, 8110 Aero Drive, San Diego, California. On October 16 the session will convene at 8 a.m. and end at 4 p.m., and on October 17 the session will convene at 8 a.m. and end at 12 noon. The meeting is open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans. The Committee shall assemble and review information relating to the needs of homeless veterans and provide advice on the most appropriate means of offering assistance to homeless veterans. The Committee will make recommendations to the Secretary regarding such activities.

On October 16, 2007, the Committee will review the responses to the Advisory Committee on Homeless Veterans 2007 report and receive information and reports from the Department of Veterans Affairs and other federal departments.

On October 17, 2007 the Committee will continue to receive reports and begin preparation of its upcoming annual report and recommendations to the Secretary.

Those wishing to attend the meeting should contact Mr. Peter Dougherty, Department of Veterans Affairs, at (202) 273–5764. No time will be allocated during the meeting for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issue affecting homeless veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Homeless Veterans, Homeless Veterans Programs Office (075D), U.S. Department of

Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: September 24, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 97–4825 Filed 9–28–07; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
October 1, 2007

Part II

Nuclear Regulatory Commission

10 CFR Parts 20, 30, et al.
Requirements for Expanded Definition of Byproduct Material; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 31, 32, 33, 35, 50, 61, 62, 72, 110, 150, 170, and 171

RIN 3150–AH84

Requirements for Expanded Definition of Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to include jurisdiction over discrete sources of radium-226, accelerator-produced radioactive materials, and discrete sources of naturally occurring radioactive material, as required by the Energy Policy Act of 2005 (EPAct), which was signed into law on August 8, 2005. The EPAct expanded the Atomic Energy Act of 1954 definition of *Byproduct material* to include any discrete source of radium-226, any material made radioactive by use of a particle accelerator, and any discrete source of naturally occurring radioactive material, other than source material, that the Commission, in consultation with other Federal officials named in the EPAct, determines would pose a similar threat to the public health and safety or the common defense and security as a discrete source of radium-226, that are extracted or converted after extraction for use for a commercial, medical, or research activity. In so doing, these materials were placed under the NRC's regulatory authority. The EPAct also mandated that the Commission, after consultation with the States and other stakeholders, issue final regulations establishing requirements that the Commission determines necessary under the EPAct. This rulemaking effort has been undertaken in response to that mandate and includes significant contributions from many States that have regulated the naturally occurring and accelerator-produced radioactive material, the Organization of Agreement States, Inc., the Conference of Radiation Control Program Directors, Inc. (CRCPD), and other stakeholders. In addition, this final rule was informed and guided by the CRCPD's applicable Suggested State Regulations for the Control of Radiation. Licensees, individuals, and other entities who are engaged in activities involving the newly defined byproduct material in both Agreement States and non-Agreement States and United States Territories will be affected by this rulemaking.

DATES: *Effective Date:* This final rule is effective on November 30, 2007.

FOR FURTHER INFORMATION CONTACT: Lydia Chang, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6319, e-mail *lwc1@nrc.gov*; or Catherine R. Mattsen, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6264, e-mail *crm@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
  A. The New, Expanded Definition of Byproduct Material
  B. The NRC's Regulatory Approach
  C. Changes to Existing NRC Regulations to Accommodate the New Byproduct Material
  D. License Application and Annual Fees
  E. Implementation Strategy
III. Summary and Analysis of Public Comments on the Proposed Rule
IV. Section-by-Section Analysis of Final Revisions
V. Criminal Penalties
VI. Agreement State Compatibility
VII. Voluntary Consensus Standards
VIII. Environmental Assessment and Finding of No Significant Environmental Impact: Availability
IX. Paperwork Reduction Act Statement
X. Regulatory Analysis
XI. Regulatory Flexibility Certification
XII. Backfit Analysis
XIII. Congressional Review Act

I. Background

The Energy Policy Act of 2005

On August 8, 2005, the President signed into law the EPAct. Among other provisions, Section 651(e) of the EPAct expanded the definition of Byproduct material as defined in Section 11e. of the Atomic Energy Act of 1954 (AEA), placing additional byproduct material under the NRC's jurisdiction, and required the Commission to provide a regulatory framework for licensing and regulating this additional byproduct material.

Specifically, Section 651(e) of the EPAct expanded the definition of Byproduct material by: (1) Adding any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity; or any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity (Section 11e.(3) of the AEA); and (2) adding any discrete source of naturally occurring radioactive material, other than source material, that the Commission, in consultation with the Administrator of the Environmental Protection Agency (EPA), the Secretary of the Department of Energy (DOE), the Secretary of the Department of Homeland Security (DHS), and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and is extracted or converted after extraction before, on, or after the date of enactment of the EPAct for use in a commercial, medical, or research activity (Section 11e.(4) of the AEA).

Although Section 651(e) of the EPAct became effective on August 8, 2005, the NRC did not have regulations in place that would specifically apply to this newly covered byproduct material (hereafter referred to as NARM). The EPAct also allowed the NRC to issue waivers to States and other entities while developing final regulations for NARM. A waiver was issued on August 31, 2005 (70 FR 51581).

Previous Regulatory Structures for NARM

The AEA authorizes the States to assume regulatory control of certain radioactive materials provided the State has an adequate program to protect the public health and safety and is compatible with the NRC's program for regulation of these materials and enters into an agreement with the NRC. As authorized by Section 274b of the AEA, 34 States have assumed responsibility for regulating certain activities related to radioactive material by entering into agreements with the NRC. The activities regulated by these "Agreement States" include the use of byproduct material, source material, and special nuclear material. Each Agreement State issues licenses to persons who use these materials in that State except for DOE, other Government agencies, and Federally recognized Indian Tribes. The NRC issues licenses to persons using these materials in non-Agreement States.

Before enactment of the EPAct, the NRC did not have authority over NARM or regulations for this type of material. Although the NRC has not regulated NARM in the past, all 34 Agreement States and certain non-Agreement States have regulatory programs for NARM. The NRC's regulations did require licensees to account for dose contributed from NARM, as well as dose

contributed from other byproduct, source, or special nuclear material, because the definition of Occupational dose encompasses both licensed material and nonlicensed material such as NARM sources at a licensed facility. In addition, the NRC requires in its radiological criteria for license termination that licensees consider other nondiscrete sources, including radium, during decommissioning activities at sites contaminated with source material, such as rare-earth processing facilities.

Currently, there are 16 non-Agreement States plus United States (U.S.) Territories. Although most non-Agreement States and U.S. Territories have some type of programs for NARM, the regulatory structures vary greatly. Certain non-Agreement States have established a licensing structure for regulating their NARM users. As such, the regulatory structure could parallel the NRC regulations issued in Title 10 of the Code of Federal Regulations (10 CFR) applicable to the current materials program, or it could parallel the Suggested State Regulations for the Control of Radiation (SSRs) developed by the CRCPD. Other non-Agreement States or U.S. Territories have elected to use registration as their regulatory structure for managing the NARM users. Some States register facilities; others register both facilities and devices. Some States use registration information to conduct inspections; others use registration to identify facility locations for security purposes. In general, there is limited regulatory oversight where registration is used in non-Agreement States. It was, in part, due to this lack of national consistency, that the EPAct placed these materials under the NRC's jurisdiction.

Agreement States have regulated NARM use for many decades in a fairly uniform and consistent manner. The Agreement States have accomplished this by using the same standards to regulate NARM as those used to regulate other byproduct, source, and special nuclear material under the NRC's authority. In many respects, regulations applicable to NARM adopted by the Agreement States are compatible with the NRC's regulations for the current materials program, or parallel the CRCPD's SSRs.

Although Agreement States do have some provisions specifically for NARM, in general, the regulatory structure used by Agreement States does not distinguish between NARM and other radioactive material. NARM users in the Agreement States are expected to implement all aspects of standards for their radiation protection programs with respect to NARM, including those aspects relating to receipt, possession, use, storage, transfer, transportation, and disposal of NARM. This regulatory structure also subjects NARM users in the Agreement States to the same licensing, inspection, and enforcement policies as those using other byproduct, source, or special nuclear materials. In addition, this regulatory structure allows for both specific and general licensing of various NARM products, the distribution of certain NARM items to persons exempt from regulation and, in most cases, includes provisions to review and approve proposals for sealed sources and devices containing NARM.

The Agreement States have regulated a vast array of NARM produced for medical, industrial, research and development, commercial, and consumer purposes. In many Agreement States, this regulatory structure also captures some types of nondiscrete sources found in the oil and gas industry or mining industry; moreover, it captures inadvertently produced activation products from the use of proton beams for medical radiation therapy. However, the regulation of these nondiscrete sources and activation products varies from Agreement State to Agreement State.

Other Federal Agencies' Regulatory Authority Over NARM

Although the States had the primary responsibility for regulating the use of NARM before the passage of the EPAct, certain Federal regulations continue to apply under some circumstances, such as environmental protection, workplace safety, drug safety, transportation, and disposal. With the passage of the EPAct, the NRC will have primary responsibility for radiation safety and in regulating the use of these materials in cooperation with the States, with the exception of those activities that are self-regulated by the DOE.

Other Federal agencies have regulations or have established programs for self-regulating certain activities involving NARM. The Department of Transportation (DOT) regulates interstate transport of NARM. In cooperation with DOT, the NRC approves Type B packages through regulations in 10 CFR Part 71. The EPA has established controls for certain NARM through several authorities, including the Clean Air Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act. The Occupational Safety and Health Administration (OSHA) of the Department of Labor has the oversight for occupational health and safety for radiation protection. It has regulations governing radiation protection in the workplace, including provisions addressing the exposure of minors to radioactive material in the workplace, but defers to the NRC on AEA materials. The Department of Commerce (DOC) has controlled the export of radioactive material. Before the enactment of the EPAct, the DOC regulated the export of all radium-226. With the enactment of the EPAct, the NRC will regulate the export of discrete sources of radium-226; DOC retains jurisdiction to regulate the export of nondiscrete sources of radium-226. The Consumer Product Safety Commission regulations have addressed hazardous substances other than byproduct, source, and special nuclear materials currently regulated by the NRC. The Food and Drug Administration (FDA) regulates all drugs (including drugs containing radioactive materials) by requiring good manufacturing practices to assure the purity, potency, and consistency of finished drugs with their labeling in establishing the safety and effectiveness of these drugs.

Section 651(e)(3) of the EPAct provides that byproduct material, as defined by Section 11e.(3) or 11e.(4) of the AEA, may only be transferred to and disposed of in a disposal facility that is adequate to protect public health and safety, and is licensed by either the NRC or a State that has entered into an agreement with the Commission under Section 274b of the AEA or at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act (RCRA).

Development of the Suggested State Regulations (SSRs)

Since enactment of the AEA in 1954, scientists continue to develop new technologies in producing radionuclides, such as the use of particle accelerators. At the beginning of the 20th century, naturally occurring radioactive material, including radium-226, was routinely used in consumer products and in cancer treatment. Because there was no Federal mandate to regulate these materials, most States have since established regulatory structures for both accelerator-produced radioactive material and naturally occurring radioactive material, including radium-226.

In 1968, CRCPD was chartered as a nonprofit organization to provide a forum for enhancing communication among States and Federal agencies

regarding radiation regulations and to promote a uniform radiation protection environment for all radioactive material. Throughout the years, CRCPD developed policies and guidance for its member States. In addition, CRCPD is responsible for the development of model regulations, known as the SSRs. Under the SSRs' regulatory framework, NARM has been a regulated radioactive material comparable to byproduct material. Nearly all of the Agreement States have based their regulations on this model for NARM.

For NARM regulation only, CRCPD also established "Licensing States" similar to the Agreement State Program under Section 274 of the AEA. Licensing States recognized by CRCPD under criteria found in Publication 94–8, "CRCPD Recognition of Licensing States for the Regulation and Control of NARM," are those States that have demonstrated an adequate and consistent regulatory control program for NARM. Licensing State designation assures comparable regulatory structures with respect to NARM, and other States may grant reciprocal recognition of their licenses or acceptance of their licensees' manufactured products.

Issuance of Waiver on August 31, 2005

Section 651(e) of the EPAct became effective immediately upon signature by the President on August 8, 2005. Before enactment of the EPAct, the NRC did not have authority over NARM or regulations in place that would specifically apply to this material. Nonetheless, persons engaged in activities involving NARM could be, and States seeking to continue regulation of NARM would be, in technical violation of the AEA.

Section 651(e)(5) of the EPAct authorized the Commission to issue a waiver of the requirements of Section 651(e) to any entity with respect to NARM for specified periods of time if the Commission determined that the waiver was in accordance with the protection of the public health and safety and the promotion of the common defense and security. The Commission determined that there was no basis to conclude that these materials would not continue to be used in a manner that is protective of public health and safety while the waiver is in effect. The Commission also determined that it would be in the best interest of the public to allow continued use of NARM, especially for medical purposes, and to allow the States to continue to regulate NARM until the Commission could codify new regulations for these materials.

The Commission believed that granting the waiver would allow the States to continue with their regulatory programs, allow persons engaged in activities involving NARM to continue their operations in a safe manner, and allow continued access to medical radiopharmaceuticals. In addition, it would enable the Commission to work with the States in developing appropriate regulations for NARM and in formulating a sound Transition Plan for implementation of these regulations. It would also provide an opportunity for non-Agreement States that currently do not have Agreement State regulatory programs under Section 274b. of the AEA to consider entering into an agreement with the NRC. The Commission determined that issuance of the waiver would be in accordance with the protection of public health and safety and the promotion of the common defense and security.

The Commission granted a waiver (70 FR 51581; August 31, 2005) from the requirements of Section 651(e) of the EPAct to: (1) All persons engaged in export from or import into the U.S. of byproduct material through August 7, 2006, unless terminated sooner if the Commission determined that an earlier termination was warranted; and except with regard to the requirements of the DOC relating to export of byproduct material; (2) all persons acquiring, delivering, receiving, possessing, owning, using, or transferring byproduct material through August 7, 2009, unless terminated sooner if the Commission determined that an earlier termination was warranted; and (3) all States that had entered into an agreement with the Commission under Section 274b. of the AEA, and States that had not entered into such an Agreement, through August 7, 2009, unless terminated sooner if the Commission determined an earlier termination was warranted, or for an Agreement State if the Commission made certain determinations required by Section 651(e)(5)(B)(ii) of the EPAct.

Stakeholder Involvement in the Rulemaking Process

The NRC took several initiatives in an effort to enhance stakeholder involvement and to improve efficiency during the rulemaking process. With assistance from the Organization of Agreement States (OAS) and CRCPD, the NRC was able to obtain participation of several State representatives in various working groups in the development of the proposed rule. Principals from OAS and CRCPD, representing interests for both Agreement States and non-Agreement States, also participated in the steering committee forming a partnership with the NRC in making rulemaking decisions. In an effort to keep stakeholders informed, the NRC held a public roundtable meeting in early November. In addition, the NRC has met with other Federal agencies to ensure coordination regarding this rulemaking.

The NRC held a public meeting on November 9, 2005, to discuss rulemaking activities to incorporate NARM into its regulatory framework. The public meeting was in a "roundtable" format to allow stakeholders an opportunity to discuss concerns and to enhance interaction among all interested parties on the subject of the NRC regulating NARM. Representatives from other Federal agencies, States, and a broad spectrum of interest groups were invited to participate in the "roundtable" discussion. A transcript of this meeting is available via the NRC's and other related documents are available from (see **FOR FURTHER INFORMATION CONTACT** section of this document.)

Following the public meeting, the NRC received five written comments from interested parties related to the discussion at the meeting and the rulemaking activities. These comment letters were reviewed and considered by the NRC staff in the development of the proposed rule.

In addition to the public meeting, the NRC interacted and met with FDA staff to exchange information regarding the NRC's NARM rulemaking efforts and the FDA's regulations for accelerator-produced drugs. The primary objective of the FDA's regulations is to ensure medical safety, purity, potency, and effectiveness of the drugs, and that of the NRC's regulations is to ensure radiation safety. During the meeting, areas of potential dual regulation were discussed. Because the NRC and the FDA have different missions, the associated regulations are more complementary than duplicative. FDA has published a proposed rule (70 FR 55038; September 20, 2005), "Current Good Manufacturing Practice for Positron Emission Tomography Drugs," and expects to finalize the rule soon. The FDA's final rule will establish criteria for the production and process/quality controls for the Positron Emission Tomography (PET) drugs in PET centers registered with the FDA.

The NRC hosted a meeting of Federal agency representatives on November 22, 2005, to discuss the development of a definition of *Discrete source* to be added to the NRC's regulations. Agencies represented at this meeting were DOT, DOE, including the National Nuclear Security Administration, Department of

Defense, DOC, EPA, and the U.S. Customs and Border Protection. A draft definition was formulated. This definition formed the basis for the definition in the proposed rule, with only minor changes and text rearrangement for clarity.

The NRC published the proposed rule to establish the regulatory framework for the newly defined byproduct material on July 28, 2006 (71 FR 42952). Thirty-nine comment letters were received. The commenters included a number of States, Federal agencies, professional organizations, universities, medical communities, industries, and individuals.

II. Discussion

A. The New, Expanded Definition of Byproduct Material

Section 651(e) of the EPAct expanded the definition of Byproduct material to include: (1) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity; (2) any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the EPAct for use for a commercial, medical, or research activity; and (3) any discrete source of naturally occurring radioactive material, other than source material, that the Commission, in consultation with the Administrator of the EPA, the Secretary of DOE, the Secretary of DHS, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security, and that is extracted or converted after extraction, before, on, or after the date of enactment of the EPAct for use in a commercial, medical, or research activity. The NRC is revising the definition of *Byproduct material* in 10 CFR Parts 20, 30, 50, 72, 150, 170, and 171 to be consistent with the EPAct. The same revision to the definition of *Byproduct material* was made in a separate rulemaking for 10 CFR Part 110 (April 20, 2006; 71 FR 20336). A different definition for the term *Byproduct material* is used in 10 CFR Part 40, because 10 CFR Part 40 regulations are limited to source material and the tailings or wastes associated with the extraction or concentration of source material. Therefore, 10 CFR Part 40 regulations are not impacted by the EPAct, and the definition of *Byproduct material* in that Part remains unchanged by this rule.

Since the publication of the proposed rule, and after considering the comments on the new definition of byproduct material, the Commission has taken a closer look at the scope of the Commission's jurisdiction over the newly added byproduct material. The EPAct covers discrete sources of radium-226 and accelerator-produced radioactive material that is "produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for commercial, medical, or research activity" (emphasis added). Notwithstanding that a discrete source of radium-226 may have originated from a commercial supplier, the Commission has determined that discrete sources of radium-226 still in control of the military do not constitute "commercial use" under the EPAct, and are therefore, outside the Commission's jurisdiction. Defining "commercial use" to include all material supplied to the military from a commercial supplier would result in virtually all military use of this material to be "commercial use." This would vitiate any distinction that the EPAct intended to make for military use, as opposed to commercial use, by excluding military use from its coverage.

However, this exclusion from the coverage of the EPAct only applies to a certain type of military use, i.e., NARM used for "military operations." The term "military operations" covers what is traditionally understood as the military's primary mission for national defense, including warfare, combat, and battlefield missions, and, of course, training for battlefield missions. NARM used, or available for use, for these purposes would be excluded from the coverage of the EPAct and from the coverage of this rule. If the material is intended for use in military operations, it is excluded from the coverage of this rule notwithstanding the fact that it was originally produced by a commercial supplier. In addition, "military operational" material includes material still under the control of the military, i.e., in storage, or material that may be subject to decontamination and disposal.

Other use of NARM by the military would be covered by this rule. Under the Commission's interpretation of the EPAct, NARM, whether discrete sources or accelerator material, that is produced, extracted, or converted for use or has been used, in medical or research activities, or in a manner similar to a commercial activity, e.g., military museums, is covered by the EPAct and this rule. Furthermore, NARM that was used for military operations but is no longer under the control of the military, has been sold, or is in the possession of private individuals, is also within the coverage of this rule.

The NRC intends to interact with the Department of Defense to obtain a common understanding of the uses of radium-226 and accelerator-produced radioactive material by the military to resolve any potential issues regarding the application of the Commission's interpretation of the EPAct in regard to any specific case of military use.

Radium-226

Radium is a chemically reactive, silvery white, radioactive, metallic element with an atomic number of 88 and symbol of Ra. Radium-226, the most abundant and most stable isotope of radium, is formed by the radioactive disintegration of thorium-230 in the decay series starting with uranium-238. Radium-226 can be found in all uranium ores. The half-life of radium-226 is 1599 years. Radium-226 emits alpha particles and gamma radiation and decays to radon gas.

Although radium was discovered in the ore pitchblende by the chemists Marie and Pierre Curie in 1898, no one understood the dangers of radium until later in the twentieth century. Based on radium's properties, especially its ability to stimulate luminescence, industries started manufacturing hundreds of consumer products containing radium. Radium was added to products such as hair tonic, toothpaste, ointments, and elixirs. Radium paint was used in the mid-1900s to paint the hands and numbers of some clocks, watches, doorknobs, and other objects to make them glow in the dark. Glow-in-the-dark watch and clock faces were particularly popular. Most of these uses were eventually discontinued for health and safety reasons, but its wide use in luminescent paints continued through World War II because radium's luminescent glow made aircraft and vehicle dials, gauges, and other instruments visible at night. Many of these early products still remain in the possession of museums and individual collectors. Large inventories of radium-226 luminescent military and aircraft devices remain and periodically turn up in repair shops, and have resulted in contamination incidents.

In more recent times, radium sources were used in industrial radiography and industrial smoke detectors. Currently, radium sources are still being used in some industrial products, such as industrial gauges, that measure certain

physical properties such as moisture and density.

Accelerator-Produced Radioactive Material

Particle Accelerators

A particle accelerator is a device that imparts kinetic energy to subatomic particles by increasing their speed through electromagnetic interactions. Particle accelerators are used to produce radioactive material by directing a beam of high speed particles at a target composed of a specifically selected element, which is usually not radioactive. Nuclei in the target are struck by the high speed particles and undergo a nuclear transformation. A nuclide that is struck is transformed into a different nuclide. By careful selection of the target element, the particles accelerated, and the operating parameters of the accelerator (e.g., beam energy), a resultant proton-heavy nuclide can be produced. Usually the nuclide produced is radioactive and is created for the use of its radiological properties. The process of transforming nuclei from a stable element into a radionuclide is called activation. In some cases, the target is selected so that the accelerator produces a neutron beam that is, in turn, used to activate nuclides that are then used for their radioactive properties. Some particle accelerators are not used to produce radioactive material, but instead the high energy beam produced by the particle accelerator is used directly, for example, to treat cancer patients.

The two basic designs of particle accelerators are linear and circular, also known as cyclotron. In either case, charged particles are injected into the accelerator to form a beam. The beam is accelerated and focused onto the target. In the circular designs, the beam must be directed to travel in a circular shaped path. For all accelerators, the process of accelerating, focusing, and directing the beam is accomplished by a combination of electrically charged structures and magnetic fields in the accelerator. During operation, these internal structures will be struck by particles from the beam and activated incidentally.

Particle accelerators are often classified by the maximum energy of the accelerated particles, expressed in megaelectron-volts (MeV). An electron-volt is the amount of energy imparted to an electron by an accelerating potential of one volt. The small cyclotrons that produce radionuclides used in PET nuclear medicine usually operate at energies of up to about 30 MeV. By comparison, the accelerators used in basic physics research facilities reach energies in excess of 1000 MeV.

For the purposes of this rulemaking, the NRC divided particle accelerators into three groupings: (1) Those that are always operated to intentionally produce radioactive materials in quantities useful for their radioactive properties for a commercial, medical, or research activity; (2) those that are operated to produce only particle beams and not radioactive materials; and (3) accelerators that are used to produce both radioactive materials and particle beams for other uses. Examples of accelerators that are operated to produce only particle beams and not radioactive materials include linear accelerators used for medical treatment of cancer and other health-related conditions. Other examples include the experimental particle physics research colliders used to probe the fundamental properties of nature (as long as that is their only use) and electron microscopes, i.e., particle accelerators that probe the structure of materials at a very small dimension (high magnification). Ion implanters are particle accelerators used to modify the electrical properties of materials in semiconductor fabrication. In these activities, no radioactive material is intentionally created; all activation is incidental to the intended use of the accelerator.

The NRC will regulate the radioactive material both intentionally and incidentally produced by all accelerators that are intentionally operated to produce a radioactive material for its radioactive properties. The NRC will not regulate the incidental radioactive material produced by accelerators that are operated to produce only particle beams and not radioactive materials for use for a commercial, medical, or research activity. For those accelerators that are used to produce both radioactive material and particle beams, the NRC will regulate the intentionally produced radioactive material and all of the incidentally produced radioactive material, including incidental radioactive material produced when the accelerator is operated to produce radioactive material, as well as incidental radioactive material produced when it is operated to produce only a particle beam. The incidental radioactive materials produced in these accelerators are indistinguishable, so both will be considered byproduct material. The NRC believes very few, if any, accelerators are operated in this way.

The EPAct does not give the NRC authority to regulate the possession or use of particle accelerators. The NRC has not adopted any rule regarding the operation of a particle accelerator or the qualification of any person maintaining or operating a particle accelerator. However, nothing in the EPAct directs the NRC to change the policy that radiation safety standards must consider unregulated as well as regulated sources of radiation. The NRC will continue to require any person subject to the dose limits in 10 CFR Part 20 to continue to include the radiation dose from the operation of a particle accelerator in meeting the dose limitations. The NRC is aware that the operation of a particle accelerator may activate materials in the structure of the building and facilities housing the accelerator. The NRC intends to assure the safe decommissioning of particle accelerator buildings and facilities, including the removal and disposal of activated building materials, to assure that the dose limits to members of the public are not exceeded. The decommissioning of these facilities will be required to meet the radiation dose limits in 10 CFR Part 20 Subpart E—Radiological Criteria for License Termination.

The majority of accelerator-produced radioactive material is now created for use in medicine. The NRC is aware of only two operations in the U.S. and a few importers, mostly from Europe and Canada, that are commercial producers of accelerator-produced radioactive material for use in industrial activities. The regulatory approach for manufacturing accelerator-produced radioactive material for industrial purposes is similar to the regulatory approach for manufacturing accelerator-produced radioactive material for medical purposes.

Accelerator-Produced Radioactive Material Used in Medical Activities

Medical use of radioactive material began over 50 years ago. The medical use of sealed and unsealed radioactive materials continues to be an important component of medical specialties for both diagnosis and therapy purposes. The use of small quantities of unsealed radioactive materials (radiopharmaceuticals) in nuclear medicine is an integral part of patient care and is extremely valuable in the early diagnosis and treatment of medical conditions. Radiation oncology uses larger amounts of radioactivity in sealed sources to deliver therapeutic or palliative radiation doses.

Almost all reactor-produced byproduct radionuclides for radioactive drugs are imported into the U.S., as well as most reactor-produced radionuclides used in sealed sources, although some used in radioactive drugs and sealed

sources are also produced in an NRC-regulated nonpower reactor. Commercial manufacturers primarily use the imported radionuclides to produce specific sealed sources, radioactive drugs, and biologics. Commercial nuclear pharmacies may use radiochemicals to prepare radioactive drugs, as well as commercially produced radioactive drugs and drug sources, such as molybdenum-99/technetium-99m generators, to prepare unit dosages of other radioactive drugs.

The U.S. has a limited number of commercial radionuclide production facilities that use accelerators to produce radionuclides, such as thallium-201, iodine-123, indium-111, and gallium-67 used in radioactive drugs. A larger number of radionuclide production facilities (often referred to as PET centers) use cyclotrons to produce the PET radionuclides fluorine-18, carbon-11, nitrogen-13, and oxygen-15 for use in PET radioactive drugs. PET radionuclides decay by positron emission and, because of their relatively short half-life (minutes to hours), are produced at locations in close proximity to the patients (e.g., in hospitals or academic institutions) or at nearby locations.

Palladium-103, the most common accelerator-produced medical use radionuclide contained in a sealed source, was originally produced at reactor facilities. Other radionuclides used in medical radiation therapy can also be produced with either reactors or accelerators. With the new definition of *Byproduct material*, sealed sources that can be produced from either pathway will be uniformly regulated. At this time, there are no teletherapy or remote afterloader or gamma stereotactic radiosurgery units with accelerator-produced sources.

Because production accelerators for medical radionuclides (e.g., PET production facilities) and industrial radionuclides are used to intentionally produce radioactive material for use of its radioactive properties for a commercial, medical, or research activity, the NRC will regulate both the radionuclides produced in these accelerators as well as the incidentally activated radioactive material.

Other Naturally Occurring Radioactive Material With Similar Risk as Radium-226

The EPAct amended the definition of *Byproduct material* to include any discrete source of naturally occurring radioactive material, other than source material, that the Commission, in consultation with the Administrator of the EPA, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security, and is extracted or converted after extraction, before, on, or after the date of enactment of the EPAct for use in a commercial, medical, or research activity.

The inclusion of discrete sources of naturally occurring radioactive material into the definition of *Byproduct material* is contingent on the Commission's determination, in consultation with other Federal agencies, that these discrete sources would pose a threat similar to the threat posed by a discrete source of radium-226. The NRC has not currently identified any discrete sources of naturally occurring radioactive material under this provision, and the rule does not contain criteria for making such a determination. For comparison, the International Atomic Energy Agency (IAEA) has identified a list of sources that are considered to pose a high risk to human health and safety if not managed safely and securely. The IAEA Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct) identified certain quantities of 26 radionuclides that pose a significant risk to individuals, society, and the environment. The activity of these radionuclides at the IAEA Code of Conduct Category 1 or 2 level could be fatal or cause permanent injury to a person who handled them or was otherwise in contact with them for a short time, if not safely managed or securely protected. Of these 26 sources, only two naturally occurring radionuclides are listed: Radium-226 and polonium-210. Because this rule addresses discrete sources of radium-226, the only other naturally occurring radioactive material similar in hazard to radium-226 when using the IAEA criteria is polonium-210. However, naturally occurring polonium is scarce. One ton of uranium ore contains only about 100 micrograms (0.0001 grams) of polonium. Due to its scarcity in nature, polonium-210 used for commercial purposes is usually produced by bombarding bismuth-209 with neutrons in a nuclear reactor and had been regulated by the NRC before the EPAct. Additionally, polonium-210 is unlikely to be commercially used in individual radioactive sources with activity levels that would place them within the IAEA Code of Conduct Category 1 or 2. Hence, the NRC has determined that no other discrete sources of naturally occurring radioactive material pose a threat similar to the radium-226-level or IAEA Code of Conduct Category 1 or 2 sources.

Through interaction with other Federal agencies and States during development of the rule, the NRC concluded that, at this time, only polonium-210 has the potential to pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security. The NRC had already been regulating the use and possession of polonium-210 because it is produced in nuclear reactors and is rarely extracted as naturally occurring radioactive material. Therefore, although this rule adds this category of byproduct material to the definitions in the regulations, at this time, the NRC's regulations will not apply to any discrete sources of naturally occurring radioactive material, other than radium-226. The EPAct has provided a mechanism for the Commission to include additional discrete sources of naturally occurring radioactive material in the future following consultation with other Federal agencies, if the need arises to consider other naturally occurring radioactive material as byproduct material. No further revision to the regulations will be necessary to begin regulating a material identified through this mechanism. However, the NRC will provide an opportunity for public input before applying its regulations to other naturally occurring radionuclides that the NRC determines in consultation with other federal agencies, pose a threat similar to the threat posed by discrete source of radium-226.

B. The NRC's Regulatory Approach

Consideration of Suggested State Regulations for the Control of Radiation (SSRs)

All 34 Agreement States have regulations for NARM. Twelve non-Agreement States and certain U.S. Territories have some type of regulatory structure for NARM, while four non-Agreement States have no program for regulating NARM. The EPAct mandated that the NRC use model State standards to the maximum extent practicable in issuing regulations for the expanded definition of *Byproduct material*. The NRC considered the SSRs published by CRCPD (*http://www.crcpd.org/free_docs.asp*) as the model State standard in developing this rule. Most Agreement States have regulated discrete sources of radium and accelerator-produced radioactive

material in a manner similar to and under the same requirements as reactor-produced radioactive material. Few provisions in the SSRs exist solely to address these materials. Where specific provisions do exist in the SSRs for these materials, they have been evaluated for possible inclusion in the NRC's regulations.

For radionuclide-specific values listed in 10 CFR part 20, Appendices B and C, the NRC found that there are no other radionuclides identified in the SSRs that are not already included in 10 CFR part 20. As discussed further in this document under Section C., "Changes to Existing NRC Regulations to Accommodate the New Byproduct Material," most of the specific provisions related to NARM radionuclides in the SSRs have been adopted in this rule. These include exempt quantities in 10 CFR 30.18 and 10 CFR 30.71, an exemption for timepieces in 10 CFR 30.15, a general license for calibration and reference sources in 10 CFR 31.8, a general license for use of radioactive material for certain in vitro clinical or laboratory testing in 10 CFR 31.11, contamination limits for strontium-82/rubidium-82 generators, and requirements to measure the contamination limits in 10 CFR 35.204 with corresponding recordkeeping requirements in 10 CFR 35.2204.

While SSRs do exist that address other types of naturally occurring radioactive material that are not covered by the EPAct or these new regulations, discrete sources of radium and accelerator-produced radioactive material are covered under the same provisions of the SSRs that apply to reactor-produced radioactive material. There is general agreement among the States, reflected in the SSRs, that the new categories of byproduct material should be regulated under the same requirements as reactor-produced radioactive material. This rule takes the same regulatory approach. Most of the requirements that will apply to users of the newly regulated material are preexisting NRC requirements.

Other Related Rulemakings

The NRC amended its regulations in 10 CFR Part 110 revising the definition of *Byproduct material* to include discrete sources of radium-226, accelerator-produced radioactive material, and discrete sources of naturally occurring radioactive material (71 FR 20336; April 20, 2006). In addition, an earlier amendment (70 FR 37985; July 1, 2005) added discrete sources of radium to 10 CFR Part 110, Appendix P. Together, the two amendments satisfy the requirements of Section 651(d) of the EPAct pertaining to the export or import of Category 1 or Category 2 radiation sources as defined by the IAEA Code of Conduct. By this final rule, the NRC is again amending is regulations in 10 CFR Part 110 to include a definition of *Discrete source*.

Section 651(d) of the EPAct also requires the NRC to issue regulations establishing a mandatory tracking system for radiation sources, including radium-226, in the U.S. The NRC issued a final rule for national source tracking of sealed sources (71 FR 65686; November 8, 2006) that included radium-226 sources.

Definition of Discrete Source

The EPAct extended the definition of *Byproduct material* in the AEA to include any discrete source of radium-226 and certain other naturally occurring radioactive material that is produced, extracted, or converted after extraction, before, on, or after the date of the enactment of the EPAct, for use for a commercial, medical, or research activity. The term *Discrete source* is not defined in the EPAct, and the EPAct specifically mandates that the final regulations, in establishing requirements necessary to carry out the amendment, shall include a definition of the term *Discrete source*. The definition of *Discrete source* is used for purposes of the new definition of *Byproduct material* in the case of radium-226 and other naturally occurring radioactive material other than source material. The term *Discrete source* is not used in conjunction with accelerator-produced radioactive material in the EPAct language.

Thus, the EPAct gave the NRC authority over discrete sources of radium-226 but not over diffuse sources of radium-226. The EPAct did not extend the NRC's authority over radium-226 as it occurs in nature, or over other processes where radium-226 may be unintentionally concentrated. The focus was on those materials that presented a threat to public health and safety or to the common defense and security similar to the threat posed by discrete radium-226 sources. Scale from pipes used in the fossil fuel industry, fly ash from coal powerplants, phosphate fertilizers, or residuals from treatment of water to meet drinking water standards are not considered discrete sources. However, uranium and thorium within these materials may become licensable source material depending upon their concentration.

The definition of *Discrete source* in the proposed rule was "a radioactive source with physical boundaries, which is separate and distinct from the radioactivity present in nature, and in which the radionuclide concentration has been increased by human processes with the intent that the concentrated radioactive material will be used for its radiological properties." As a result of public comments on the proposed rule, the NRC changed the wording of the definition of *Discrete source* from that in the proposed rule. *Discrete source* is defined in this final rule as "a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities." The changes are for clarification purposes only and do not change the original intent of the proposed definition of *Discrete source* or the scope of the NRC's regulation of radium-226 or other naturally occurring radioactive materials identified in the future. The intent of the revised definition continues to be consistent with the proposed rule in that the NRC's authority is not intended to extend to all naturally occurring radioactive material, specifically not to naturally occurring radioactive material that is found in nature in its original form and location, or that which is moved or concentrated inadvertently by some man-made process. A discrete source will have the same radiological characteristics (e.g., type of radiation, half-life) as the radionuclide found in nature but will have been purposefully concentrated for use for its specific properties after it has been removed from its original location in nature. This definition excludes the NRC's jurisdiction over inadvertent movement or concentration of naturally occurring radioactive material such as scale from pipes used in the fossil fuel industry, fly ash from coal power plants, or phosphate fertilizers. It also excludes NRC jurisdiction over residuals from treatment of water. While radium, in particular, may be intentionally concentrated in this case, it is not for the purpose of using the radium, but to improve water quality. Only if, and when, this radium were further processed for use would it be considered a discrete source, and thus byproduct material. Neither the changes to the AEA as a result of the EPAct, nor anything in this rulemaking changes the NRC's authority, in any manner, over source material.

The words "a radionuclide that has been processed so that its concentration within a material has been purposely increased" are intended to further clarify that the extraction or processing relates to the intent to use the radionuclide itself, and not a material

that happens to contain the radionuclide, such as fertilizer. The addition of the phrase "for use for commercial, medical, or research activities" repeats a constraint that also appears in the definition of *Byproduct material*. The NRC has repeated this constraint in order to ensure that when the term "discrete source" is used separately from the term "byproduct material," it will not be interpreted more broadly, but it will be clear that only material which is intended for use for commercial, medical, or research activities is being referenced.

It should also be noted that in accordance with this definition of *Discrete source*, once a discrete source meets the definition of *Byproduct material*, any contamination resulting from the use of such discrete sources of this byproduct material will also be considered byproduct material. This issue is discussed further in this document under "Summary and Analysis of Public Comments on the Proposed Rule."

C. Changes to Existing NRC Regulations To Accommodate the New Byproduct Material

The Commission has authority to issue both general and specific licenses for the use of byproduct material and to exempt byproduct material from regulatory control under Section 81 of the AEA. A general license, as provided by regulation, grants authority to a person for certain activities involving byproduct material and is effective without the filing of an application with the Commission or the issuance of a licensing document to a particular person. Requirements for general licensees appear in the regulations and are designed to be commensurate with the specific circumstances covered by each general license.

In considering the expansion of the definition of *Byproduct material* to include discrete sources of radium-226 and accelerator-produced radioactive material, the NRC has evaluated products and materials previously approved by the States for use under an exemption from licensing and under a general license. Generally, the NRC's intent in this rule is to accommodate existing products and materials that were previously regulated by the States under similar provisions, if the potential doses are similar to those expected from other currently regulated products and materials. Many of these products have not been made for some time, so some of the provisions in this rule are limited to items manufactured in the past, which may still be in use or in storage.

The bases of these exemptions and general licenses are primarily the SSRs and also information in NRC's sealed source and device (SS&D) registry. The SS&D registry is the NRC's national database of technical information on sealed sources and devices. Manufacturers or distributors may submit a request to the NRC for an evaluation of a product's radiation safety information and for registration of the product. After satisfactory completion of the evaluation, the NRC issues a certificate of registration to the person making the request, and this certificate is added to the SS&D registry. Many Agreement States have similar registration procedures, and registration certificates for the sources and devices they review are added to the national SS&D registry. The NRC also has included SS&D certificates for NARM, which have been issued by the States. While this is not a complete database with respect to NARM, it includes detailed information about many products containing NARM previously evaluated by the States. In addition to SSRs and the information in the SS&D registry, the specific provisions of the various States also were considered in developing this rule.

Regulating Items Containing Radium-226

Currently, items or products containing radium-226 are unique in that there are no new items in consumer commerce using radium-226 byproduct material. Although certain industrial devices such as moisture density gauges containing radium-226 are still in use, most radium-226 articles have not been produced for at least 20 years. Beginning in the early 1900s, radium-226 was used to make self-luminescent paint and incorporated in watch and clock dials and hands and later used to illuminate airplane instrumentation dials and gauges as well as markers and signs. Beginning in the 1950s, other radionuclides began to replace radium-226 as a self-luminescent material due to the recognition of the radiological hazard associated with radium-226. Currently, the radionuclides of choice for self-luminescent applications are promethium-147 and tritium due to the much reduced radiological hazard vis-a-vis radium-226.

Based on the National Council on Radiation Protection and Measurements in Report 95, "Radiation Exposure of the U.S. Population from Consumer Products and Miscellaneous Sources," radium-226 has not been used in radioluminescent watches since 1968 and clocks since 1978. In fact, radium-226 timepieces are currently kept largely as collectors' items and only infrequently used by consumers as timepieces. When originally manufactured, the quantity of radium-226 employed in watch and clock dials and hands varied by timepiece size, manufacturer, model, and from item to item. While the quantity of radium-226 varied in the timepieces, there is a general agreement for typical average and upper bound quantities. Based upon the spectrum of timepiece sizes, wristwatches have the smallest quantity, with pocket watches and clocks having quantities several times higher than wristwatches. The radioactivity associated with wristwatches is generally on the order of several kilobecquerel (kBq) (tenths of a microcurie (μCi)) with an average of 5.6 kBq (0.15 (μCi)). Pocket watches may have radioactivity of about 13 kBq (0.35 μCi), and clocks are typically 18 kBq (0.5 μCi). However, collections of pocket watches and clocks are rare when compared to wristwatches.

Before the discontinuation of the manufacturing of timepieces containing radium-226 in the 1970s, radium-226-illuminated timepieces were widely distributed throughout the country as a common consumer product. To date, a large number of radium-226 timepieces are still owned by individuals as valued heirlooms or collectors' items or are on display in museums. Because museums and collectors normally collect a wide range of timepieces, a portion of their collection may contain radium-226 timepieces. Some businesses and a few collectors are also engaged in repairing and refurbishing timepieces either as a hobby or professionally, and these activities may occasionally involve timepieces containing radium-226. Because these timepieces were manufactured before the NRC assumed regulatory authority over radium-226, and because these timepieces are already in public possession, the NRC intends to minimize regulatory impact to individuals, museums, or other entities in possession of these timepieces. In finalizing the rule, the NRC made its determination based on no significant risk to public health and safety and the environment.

In the proposed rule, the NRC proposed to exempt intact timepieces containing no more than 37 kBq (1 μCi) of radium-226 per timepiece and repair of no more than 10 timepieces in any one year. In addition, the NRC proposed to generally license no more than 50 timepiece hands and dials used or stored at the same location at any one time. Due to lack of sufficient health and safety information to make a final regulatory decision, the NRC conducted

a scoping study for estimating potential radiological doses to individuals associated with use, storage, and repair of radium-226 timepieces. The scoping approach taken by the NRC used widely accepted methods and employed conservative assumptions for various scenarios involving use, storage, and repair of radium-226 timepieces. Because the scoping study was designed to be conservative and meaningful and yet easy to perform, it is to be expected that the actual doses would be significantly lower than those predicted by the scoping study.

To evaluate the potential doses associated with the proposed exemption of radium-226 timepieces, 37 kBq (1 μCi) of radium-226 per timepiece was used in the scoping study instead of the typical average activities for timepieces, which provided for additional conservatism. Radon-222 is a decay product in the radium-226 decay series and may be emitted from the timepiece into the surrounding atmosphere and thus result in exposure to an individual in proximity to the timepiece. It is believed that the radon-222 emanating from the paint is almost totally trapped within the watch. Because of the age of radium-226 timepieces, and because there is no established method for quantifying the trapping behavior, the scoping study conducted by the NRC assumed that the entire inventory of decay products instantly escaped and became uniformly distributed into the surrounding building volume. This assumption is obviously very conservative. As a result, the estimated inhalation doses associated with radon-222 are extremely conservative. The scoping study found that the estimated doses to a collector for repair, storage, and use of a radium-226 timepiece range from a fraction of 0.01 millisievert/yr (mSv/yr) [1 millirem/yr (mrem/yr)] to a few mSv/yr (mrem/yr) to over 1 mSv/yr (100 mrem/yr).

At one time, there were repair facilities refurbishing radium timepieces on a regular basis by replacing radium-226 paint with tritium paint. Scraping off the radium-226 paint may have resulted in significant contamination. The NRC is not aware of any current operations in which individuals are still routinely handling radium watches in such a way as to create a contamination problem. Based upon the estimated doses for repairs, the NRC believes that a specific limit on the annual number of repairs is not necessary. As long as these repairs are taking place under a general license, actions could always be taken if the Commission receives information that suggests that the public health and safety are not being adequately protected.

The NRC's intent is to minimize regulatory impact on those private collectors and museums as much as possible, and to be as consistent as possible with the regulatory approach taken by the Agreement States, many of whom have been regulating radium-226 for several decades. Accordingly, in light of the public comments received, the Agreement States' rulemaking involvement and the results of the scoping study in finalizing the rule, the NRC revised the proposed revisions related to radium-226 timepieces. Primarily, the change made in this final rule is to broaden the general license provision for the radium-226 timepieces. Specifically, the NRC has concluded that a finite number of annual repairs as well as a limitation on the number of nonintact timepieces and timepiece hands and dials is unnecessary and not warranted based upon the NRC's understanding of radium-226 timepieces either in collections or in use. As a result of the scoping study and in response to public comments, the NRC has concluded that it is appropriate to recategorize the repair of timepieces from an activity allowed under an exemption from licensing to one covered by a general license. This categorization is also more consistent with the Agreement States' existing exemption provision.

Although not mandated by regulations, the NRC advises that individual collectors or persons engaged in repair of these devices should use good practices such as wearing gloves when handling radium-226 timepieces, hands, and dials, and washing hands to minimize potential exposure to the radioactive material. In addition, individual collectors should ensure that storage areas are well ventilated to minimize potential exposure due to accumulation of radon-222 gas and should avoid unnecessary exposure to these types of timepieces.

Exemptions From Licensing

In 10 CFR Part 30, a number of exemptions from licensing requirements are included. These exemptions allow for certain products and materials containing byproduct material to be used without any regulatory requirements imposed on the user. The two exemptions in 10 CFR 30.19, Self-luminous products containing tritium, krypton-85, or promethium-147, and 10 CFR 30.20, Gas and aerosol detectors containing byproduct material, are class exemptions which cover a broad class of products. Under these provisions, new products can be approved for use through the licensing process if the applicant demonstrates that the specific product is within the class and meets certain radiation dose criteria. This contrasts with other exemptions for which the level of safety is controlled through such limits as specification of radionuclides and quantities. Section 30.14, Exempt concentrations, and Section 30.18, Exempt quantities, of NRC's regulations, are broad materials exemptions, which allow the use of a large number of radionuclides. The specific radionuclide limits on these concentrations and quantities are contained in tables in 10 CFR 30.70 and 10 CFR 30.71, respectively. The remaining exemptions from licensing are product specific, for which many assumptions can be and have been made concerning how the product is distributed, used, and disposed of. This final rule adds some products and materials containing NARM to some of the previously existing exemptions. The table of exempt concentrations in 10 CFR 30.70 already included all of the radionuclides and associated limits contained in the equivalent section of the SSRs. Thus, the NRC is not revising the exempt concentration table in this final rule.

Exempt Quantities

Part C of the SSRs includes a list of exempt quantities which are identical to those in 10 CFR 30.71 but includes an additional 13 radionuclides, which are accelerator produced. This final rule adds these 13 radionuclides and their respective quantities, as already included in the SSRs, to the list of exempt quantities in 10 CFR 30.71. The technical bases of these values are similar to those used for the existing values in 10 CFR 30.71.

The NRC considered whether there were additional radionuclides in use under comparable State exemptions that should be accommodated under 10 CFR 30.71. It was noted that a few of the States' regulations for exempt quantities include additional radionuclide-specific values, each appearing in only one or two States' regulations. These radionuclides are specifically exempted in only one or two States; thus, they do not represent nationally recognized exemptions. It was also not clear as to what approach was used to calculate their exemption values. Therefore, the NRC is adding only the 13 radionuclides and values from the SSRs for which there are adequate technical bases, and no further additions to 10 CFR 30.71 are included in this final rule. It is noted, however, that for other byproduct material, excluding alpha emitters, which is the last item on the list in 10

CFR 30.71, Schedule B allows for 3.7 kBq (0.1 μCi) to be used as an exempt quantity. This will apply to accelerator-produced radionuclides as well. Minor changes are also being made to 10 CFR 30.18 to accommodate any materials that may have been received before September 25, 1971, under a general license of a State similar to that then provided in 10 CFR 31.4.

Timepieces Containing Radium-226

The exemption in 10 CFR 30.15(a)(1) is being revised to include intact timepieces that were manufactured before the effective date of this final rule and containing no more than 37 kBq (1 μCi) of radium-226. This provision is consistent with the SSRs, except that the rule is limited to "intact" timepieces. In the final rule, the repair of timepieces was moved from the exemption to the general license to be more consistent with the SSRs and to broaden the general license provision. As discussed earlier, the possession of nonintact timepieces, hands, and dials, and the repair of timepieces would be covered by a new general license. This general license provision should cover most current practices involving radium-226 and minimize impacts upon individual collectors and small businesses. A general license is automatically granted by NRC regulations to any person meeting the general license criteria. No action is required from these persons to obtain a general license, and no license or annual fees are applicable to persons operating under this general license.

Self-Luminous Products

Although the SSR section similar to 10 CFR 30.19 includes an exemption for previously acquired self-luminous articles containing less than 3.7 kBq (0.1 μCi) of radium-226, 10 CFR 30.19 is not being amended to include this exemption. The basis for not including this exemption is that, as currently written, 10 CFR 30.19 only applies to products manufactured and distributed under a specific license issued under 10 CFR 32.22. The SSR exemption does not require that these products be previously manufactured and distributed under a specific license, nor do the SSRs provide for such a license with regard to radium-226. Instead, the possession, use, and transfer of these items will be subject to the general license for certain items and self-luminous products containing radium-226 established in 10 CFR Part 31.

Smoke Detectors

Smoke detectors are included in the class exemption in 10 CFR 30.20 for gas and aerosol detectors. This exemption is being revised to include previously manufactured detectors containing radium-226. The provision for smoke detectors is different from the SSRs in that the SSRs contain a specific limit of 3.7 kBq (0.1 μCi) for radium-226 that manufacturers may incorporate into the currently manufactured detectors. However, the SS&D registry includes certificates for smoke detectors categorized as exempt containing up to 74 kBq (2 μCi) of radium-226. While some of these certificates are categorized as "Active," meaning that continued distribution is permitted, a survey of the States with these certificates confirmed that the distribution of radium-226 in smoke detectors was, in fact, a past practice. The provision added to 10 CFR 30.20 for detectors containing radium-226 is limited to detectors previously manufactured and distributed under a specific license issued by a State under comparable provisions to 10 CFR 32.26. Thus, similar standards were used in approving distribution of these detectors for use under an exemption from licensing. This exemption does not cover smoke detectors manufactured earlier with larger quantities of radium-226 and authorized for use under a general or specific license, or smoke detectors that may not have been distributed under a specific license.

Distribution to Exempt Persons

The NRC retains the authority for authorizing distribution of products and materials where the end user is exempt from licensing and regulatory requirements by regulation in 10 CFR 150.15(a)(6), which states, in part, that persons in Agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the transfer of possession or control of any equipment, device, commodity, or other products containing byproduct material to persons who are exempt from licensing and regulatory requirements of the Commission. The NRC does not transfer this authority when a State enters into an Agreement with the NRC. Therefore, persons who initially transfer products containing byproduct material to persons who are exempt from licensing must have a license from the NRC authorizing these activities. These distributors also need a specific license from either an Agreement State or from the NRC authorizing the possession and use of the byproduct material. As a result of the expansion of the definition of *Byproduct material*, the distribution of NARM to exempt persons, including distribution by licensees in Agreement States, will also be authorized only by the NRC. Currently, the States have only a few licensees authorized to distribute to persons exempt from licensing requirements. These are for exempt quantities of accelerator-produced radioactive material. In finalizing this rule, the NRC has determined that most, if not all, of these distribution licensees already have an NRC license under 10 CFR 32.18 authorizing the distribution of exempt quantities of pre-EPAct byproduct material. For these distribution licensees, only a simple amendment of those NRC licenses will be required as a result of this aspect of this final rule.

Existing General Licenses

General License for Devices in 10 CFR 31.5

Section 31.5 is the primary general license provision in 10 CFR Part 31. It covers a broad range of devices "designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere." These devices must be distributed under specific licenses issued under 10 CFR 32.51 or equivalent regulations of an Agreement State. There are numerous SS&D certificates for devices containing NARM that have been approved by the States for use under a general license. These are almost all for devices containing cobalt-57, sodium-22, or radium-226. In many cases, models have been approved which are authorized to contain one of these radionuclides or one or more other radionuclides that were byproduct material before the EPAct. They have been evaluated under equivalent, in most cases, or at least comparable, standards by the States. The rule will accommodate generally licensed devices meeting the restrictions of the general license that were previously approved by the States under comparable provisions to 10 CFR 32.51. Active certificates would stand with amendments, if needed, being made to the distributors' licenses to cover the new categories of byproduct material. Any new certificates would be issued by the NRC or the Agreement States under the AEA encompassing the new definition of *Byproduct material*.

The criteria for registration of generally licensed devices under 10 CFR 31.5(c)(13)(i) are revised to include a criterion for registration by general licensees of devices containing 3.7 megabecquerels (MBq) (0.1 millicurie (mCi)) or more of radium-226. This

registration process is separate and quite different from the SS&D registry. It requires physical inventories and certification of device information by general licensees, allows the NRC and Agreement States with equivalent regulations to more fully track generally licensed devices meeting these criteria, and serves to remind general licensees of their responsibilities under the general license. SS&D certificates for generally licensed devices that will now come under 10 CFR 31.5 include devices with more than 3.7 MBq (0.1 mCi) of radium-226. These devices will be subject to the registration requirement in 10 CFR 31.5(c)(13). Other certificates, which include devices with radium-226, allow only much smaller quantities. These devices will not be required to be registered. This criterion for registration of radium-226 was chosen because of the low concentration levels which typically are required for decontamination and decommissioning involving radium-226, as well as the relative dispersibility of radium-226. A principal purpose of the registration process concerns reducing losses of devices that could significantly contaminate a smelter, if inadvertently melted. The NRC does not believe there are accelerator-produced materials used in significant quantities in these types of generally licensed devices to warrant registration.

Distributors of NARM have typically also been distributors of pre-EPAct byproduct material. Many of them have not excluded information about transfers of devices containing NARM from reports of transfers made to the NRC on generally licensed devices transferred into the NRC jurisdiction. Therefore, the NRC already has information on some of these devices in its general license tracking system. The NRC will work with the States to examine methods to include State information. It is expected that the registration process will identify additional devices containing registrable quantities of radium-226, as users in many cases will already be registering other devices with the NRC containing other radionuclides and will need to add devices containing radium-226 during the registration process. The requirements in 10 CFR 32.51, 32.51a, and 32.32 applicable to the manufacture or initial transfer of these devices did not need revision to accommodate NARM.

Calibration and Reference Sources in 10 CFR 31.8

Section 31.8 provides a general license for the use of up to 185 kBq (5 μCi) of americium-241 in calibration and reference sources. This final rule adds radium-226 to 10 CFR 31.8, consistent with the SSRs. This general license is only applicable to specific licensees that have calibration and reference sources as defined in 10 CFR 31.8, and simply eliminates certain administrative requirements to address these sources under the specific license. The sources are covered by requirements applicable under the specific license, as well as additional requirements in 10 CFR 31.8. The requirements in 10 CFR 32.57, 32.58, 32.59, and 32.102 applicable to licenses to manufacture or initially transfer these sources are also amended to include radium-226.

General License for In Vitro Test Kits in 10 CFR 31.11

In keeping with the equivalent section of the SSRs, cobalt-57, in units not exceeding 370 kBq (10 μCi) each, is added to the general license in 10 CFR 31.11 for use in certain in vitro clinical or laboratory testing. Also, the requirements in 10 CFR 32.71, which provide the licensing criteria for the manufacturer and distributor of the products used under this general license, are revised to apply to the cobalt-57 products included in the general license.

New General License for Certain Items and Self-Luminous Products Containing Radium-226

The Commission specifically requested information on the types and quantities of products containing radium-226 and any information that could assist the NRC in more fully evaluating the potential impact to public health and safety and the environment due to activities involving radium-226 sources. As discussed earlier, the general license provisions for radium-226 timepieces were changed to remove, from the proposed rule, a limitation on the number of timepieces that could be possessed. In response to public comment, the general license provision within this section for luminous gauges and other luminous products containing radium-226 was also changed with respect to the categories of products covered and the numbers of products allowed to be kept at any one location. This is discussed in this document under the section, "Summary and Analysis of Public Comments on the Proposed Rule." Because 10 CFR 31.2 delineates the applicability of specific provisions in 10 CFR part 30 to the general licenses of 10 CFR part 31, an exemption from the reporting and recordkeeping requirements of 10 CFR 30.50 and 30.51 is added to further reduce the regulatory burden on stakeholders. Furthermore, because many of the circumstances that would require reporting under 10 CFR 30.50 are unlikely to occur, the NRC believes that it is unnecessary to apply these requirements to this general license and that the reporting requirements in 10 CFR 31.12 are adequate.

The new section added to 10 CFR part 31 provides a general license to any person for other products and discrete sources containing radium-226 that are not exempted, and are apparently in the public domain, but were not otherwise covered under a license and are not specifically addressed in the SSRs. The general license includes: (1) Antiquities originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads; (2) Nonintact luminous timepieces and timepiece hands and dials not contained in timepieces; (3) Luminous gauges and other items containing radium-226 installed in air, marine, or land vehicles (These include airplanes, helicopters, jeeps, trucks, tanks, ships, landing vessels, artillery pieces, and any other former military use vehicle no longer in control of the military.); (4) All other luminous products, provided that no more than 100 are used or stored at the same location at any one time; and (5) Small radium sources containing no more than 37 kBq (1 μCi) of radium-226 as discrete survey instrument calibration sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers, and spinthariscopes), electron tubes, lightning rods, ionization sources, and static eliminators. As discussed earlier, this general license allows any person to acquire, receive, possess, use, or transfer radium-226 contained in the previously mentioned products. Persons who receive, possess, use, or transfer the radium-226 items under the general license are exempt from the provisions of 10 CFR parts 19, 20, 21, and 10 CFR 30.50 and 30.51 to the extent that the receipt, possession, use, or transfer is within the terms of the general license.

The general license prohibits the manufacture, assembly, disassembly, repair, or import of products containing radium-226 except for the repair of timepieces; prohibits export under the general license; and requires that the product only be disposed of by transfer to a specific licensee authorized to receive it or to a disposal facility

authorized to dispose of the material in accordance with any Federal or State solid or hazardous waste law. The general license also prohibits abandonment of the product. The general license requires notifying the NRC if there is any indication of a possible failure of, or damage to, the product that could result in a loss of the byproduct material and requires persons possessing these devices under the general license to respond to written requests for information from the NRC.

It should be noted that 10 CFR 31.2 delineates the terms and conditions of 10 CFR part 30 which apply to general licensees. These provisions generally will not require general licensees to initiate any actions.

It is the NRC's intent, through the general license provision, that the Agreement States, to a large extent, will be able to maintain the existing "status quo" in regulating these categories of discrete sources of radium-226. The Agreement States may continue with their programs, including requiring a specific Agreement State license or decommissioning plan when larger numbers of products may be involved or significant contamination of property has resulted.

Specifically Licensed Sealed Sources and Devices

Registration of Safety Information and Licensing of Sealed Sources and Devices

The NRC is revising 10 CFR 30.32(g) to allow for the specific licensing of sealed sources and devices containing NARM that were previously regulated by the States. Sources and devices registered by the States may be licensed under 10 CFR 30.32(g)(1), and the user is only required to provide the manufacturer and model number as registered in the SS&D registry.

A new paragraph (3) is also being added to 10 CFR 30.32(g) to allow for the licensing of sealed sources and devices containing NARM for which all of the information otherwise required is not available. This second provision has been added in this final rule as a result of public comment. Previously, if a source or device were not registered in the SS&D registry, the applicant who wanted to use the source or device would be required to submit all of the safety information identified in 10 CFR 32.210(c), because this information had not been submitted previously by the manufacturer or distributor as part of registering the source or device. For older "legacy" devices for which the manufacturer is no longer in existence, it may be impossible to provide all of the categories of information identified in 10 CFR 32.210, as required by 10 CFR 30.32(g)(2). The provision being added as 10 CFR 30.32(g)(3) delineates additional information that will be required to license a source or device for which all of the information previously required is not available. The information must include a description of the source or device, a description of radiation safety features, intended use and associated operating experience, and results of a recent leak test. The NRC licensing staff will review the submitted information to make a licensing decision regarding possession and use of the source and device. This new provision is only applicable to sources and devices containing NARM manufactured before the effective date of this final rule.

The information to be provided must demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. The amount of detail needed to make this finding will depend on such things as the nature of the source or device and the amount of information identified in 10 CFR 32.210(c) that is available. However, generally, the source or device description might include the radionuclide(s), source activity, chemical and physical form, manufacturer's name, distributor's name, model number, construction details such as source or device dimensions, source encapsulation, any labeling, and a radiation profile. A description of device radiation safety features might include shielding, on-off mechanisms or indicators, methods for locking beam shutters, any safety warning labels, type of installation including method of attachment to its mounting if installed in a fixed location and means of relocation if portable, and any automatic safety features. The description of the intended use of the source or device could include how the source or device is used, the types of users, the locations of use, the occasions when persons will be near the device and the frequency of these occasions, and the likely environments to which the source or device will be subjected during normal use and likely accident conditions. A description of associated operating experience using the source or device should describe how the device has been used, particularly if the device will be used in this manner in the future, should include routine maintenance procedures and how frequently performed, should note any operating problems and their resolution, and should identify any parts that were repaired or replaced. A description of a recent leak test should identify when the swipe was taken and evaluated and describe how the leak test swipe was taken, the results, and who conducted the evaluation.

Applicants are not authorized to remove sources from a device to obtain source details, unless qualified and specifically authorized to perform these activities under a license. For "uncontained" sources, applicants will need to use caution and minimize exposure time when attempting to gather details or information directly from the source.

Regulating the Accelerator-Produced Radioactive Material Used in Medical Activities

When reviewing the public comments, it was clear that the discussion in the proposed rule of the NRC's existing regulatory framework for medical products, the distinction between radionuclide production licensing and radioactive drug production licensing, and the commercial and noncommercial distribution provisions, as well as the introduction of the term "consortium," were confusing to commenters. In addition to responding to individual comments on these subjects in the "Summary and Analysis of Public Comments on the Proposed Rule" section of this document, the following discussion is provided to give a clearer overview of the NRC's regulatory framework than was provided in the proposed rule discussion, particularly with respect to the delineation between production of radionuclides and radioactive drugs.

Section 651(e) of the EPAct requires the NRC to consider the impact of its regulations on the availability of radioactive drugs to physicians and patients. After consideration, the NRC concluded that its well established regulatory framework for the production, distribution, and use of in vitro test kits, radioactive drugs (which include biologics), and SS&Ds for medical use activities involving byproduct material is also appropriate in large part to similar products containing accelerator-produced radioactive materials. Using the existing regulations could, with minor changes, minimize the impact on the availability of radioactive drugs containing accelerator-produced radionuclides. Therefore, this regulatory framework is applied to the producers, distributors, and medical users of in vitro test kits, radionuclides, radioactive drugs, and SS&Ds containing NARM that are

included in the EPAct's expanded definition of Byproduct material.

Radionuclide Production

The preexisting regulatory framework is directly applicable to the commercial production and distribution of NARM radionuclides. Longer-lived accelerator-produced radionuclides used in medicine may include: thallium-201, cobalt-57, and palladium-103. The shorter half-life PET radionuclides may include: fluorine-18, oxygen-15, and carbon-11. The production of radionuclides by accelerators (including PET radionuclides from cyclotrons), as well as the subsequent possession and use of these radionuclides, will be licensed under existing requirements in 10 CFR part 30. The producer of the accelerator-produced radionuclides (including PET radionuclides) can transfer these radionuclides to manufacturers and other specific licensees under the provisions of 10 CFR 30.41. This includes both commercial and noncommercial distribution of accelerator-produced radionuclides (including PET radionuclides) to specifically licensed universities and research laboratories for basic research but not for use on human beings, which is specifically excluded in the definition of Research and development in 10 CFR 30.4.

These radionuclide production facilities include commercial nuclear pharmacies with PET centers, *i.e.*, facilities with cyclotrons used to produce PET radionuclides. The NRC will review applications and the associated radiation safety programs of these radionuclide production facilities in accordance with the criteria in 10 CFR 30.33 and other existing requirements such as 10 CFR parts 19 and 20. In meeting the general training and experience requirement in 10 CFR 30.33(a)(3), these applicants will need to have individuals with training and experience in the production of PET radionuclides, i.e., the processes from insertion of targets in the accelerator or cyclotron to radiochemical isolation, purification, and testing. Individuals, such as radiochemists, physicists, engineers, and others identified by the applicant with appropriate training and experience, will be recognized as authorized users (AUs) under the manufacturer's, producer's, or pharmacy's 10 CFR part 30 license for the production of accelerator-produced radionuclides (including PET radionuclides) using cyclotrons or other types of accelerators. To ensure the continued availability of accelerator-produced radionuclides used to manufacture or prepare radioactive drugs, it is expected that individuals, who can demonstrate that they performed the radionuclide production activities using an accelerator at a radionuclide production facility under the NRC's waiver (70 FR 51581; August 31, 2005), will be recognized as AUs as long as their duties and responsibilities do not significantly change. The applicant will be required to document that these individuals were responsible for the production of radionuclides using a cyclotron or accelerator when the waiver was in effect.

The NRC is distinguishing between the "production of radionuclides" and "preparation of radioactive drugs." Production of radionuclides, which would include production of PET radionuclides using a cyclotron (or other accelerator), is regulated under 10 CFR part 30. Preparation of radioactive drugs for medical use from radionuclides, including PET radionuclides, is regulated under 10 CFR 32.72 and 10 CFR part 35. Preparation of radioactive drugs for medical use may occur at locations other than the production facility. In the proposed rule, 10 CFR 32.72 included a provision to authorize commercial nuclear pharmacies that were not registered with FDA or registered with a State as a PET drug production facility to produce PET radionuclides if their radiation safety programs meet the criteria in 10 CFR 30.33. However, the purpose of 10 CFR 32.72 is to address the criteria and requirements for the production and commercial distribution of radioactive drugs for medical use, and not the production of radionuclides. Therefore, the final rule does not include this provision. Based on a review of the requirements in 10 CFR part 30, no revisions to the regulations are needed to license PET radionuclide production under 10 CFR part 30.

10 CFR Part 32 Specific Production and Distribution Requirements.

Byproduct material may be transferred under 10 CFR 30.41 from one specific licensee to another person authorized to receive the material. However, not all transfers can be made under this provision, and certain transfers (or distributions) require that the manufacturer, preparer, or distributor meet specific provisions of 10 CFR part 32. Specifically, a commercial radioactive drug manufacturer or a commercial nuclear pharmacy must obtain a distribution license issued under 10 CFR 32.71 to distribute certain in vitro test kits to generally licensed medical and veterinary clinical laboratories, and a medical distribution (MD) license issued under 10 CFR 32.72 to commercially distribute radioactive drugs to 10 CFR part 35 (and equivalent Agreement State) medical use licensees. The proposed rule included revisions to the qualifications for a licensee to obtain a 10 CFR 32.72 MD license to more accurately describe the FDA registration criteria and to include licensees registered with a State as a PET drug production facility. These provisions are unchanged in the final rule. No changes are necessary for MD licenses issued to medical SS&D manufacturers under 10 CFR 32.74. The MD licenses issued under 10 CFR 32.72 and 10 CFR 32.74 authorize distribution for medical use (10 CFR part 35 and equivalent State) licensees. Under the NRC's licensing practice, most of the 10 CFR part 32 distribution licenses do not authorize the possession and use of byproduct material; rather, separate 10 CFR part 30 licenses are issued for this purpose.

PET radioactive drugs are made with radionuclides that are usually very short lived. In addition to the commercial drug manufacturers and commercial nuclear pharmacies, individual hospitals, educational institutions, and Federal facilities may have cyclotrons used to produce PET radionuclides and may also prepare PET drugs from these PET radionuclides. Although most PET radionuclides are very short lived, certain PET radionuclides with longer half-lives may be transported from the production facility to the user's site. The longer-lived PET radionuclides may also be combined with nonradioactive chemicals and biologics to produce new PET radioactive drugs. Hence, there are production and commercial distributions of some PET radioactive drugs (e.g., fluorine-18 deoxyglucose) to medical users (10 CFR part 35 licensees).

Consortiums and Noncommercial Distribution

The extremely short-lived radionuclides used for medical use have to be made into drugs and administered immediately after production, essentially necessitating that the cyclotron be located in the medical facility or in very close proximity. Some educational institutions, medical use facilities, or Federal facilities may form "consortiums" with adjacent or nearby hospitals to jointly own or share in the operation and maintenance costs of the PET radionuclide production facility. "Consortium" in this context means an association of medical use licensees, and a PET radionuclide production facility, in the same geographical area, that jointly own or share in the operation and maintenance cost of the

PET radionuclide production facility that produces PET radionuclides, for use in producing radioactive drugs within the consortium, for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a Federal facility or a medical facility. These facilities may produce PET radionuclides and radioactive drugs for members of their consortium and make these PET radionuclides and drugs available to these associated facilities through noncommercial distributions. Before this rulemaking, the NRC's regulations did not allow for the noncommercial distribution of radioactive drugs to medical use licensees. The NRC's regulations in 10 CFR 32.72 for the manufacture, preparation, or transfer of radioactive drugs cover only commercial distribution. Medical uses of drugs under 10 CFR 35.100, 35.200, and 35.300 were previously limited to drugs obtained from a 10 CFR 32.72 licensee, or Agreement State equivalent, or prepared by the medical use licensee under specific provisions in 10 CFR part 35. Because the NRC did not allow noncommercial distribution of radioactive drugs, failure to address noncommercial distribution of PET radioactive drugs in the this final rule would impact the availability of these drugs to physicians and patients.

Therefore, the NRC developed a new regulatory process based upon existing practices to minimize impact on the noncommercial distribution of PET radioactive drugs to medical use licensees within such a consortium. In accordance with this process, a part 35 medical use facility that uses its own cyclotron to produce PET radionuclides for use under its own medical use license, would not need to be licensed for medical distribution under 10 CFR 32.72, but it would have to be specifically authorized under 10 CFR part 30 for the production of PET radionuclides.

The definition of *Consortium* incorporates the unique features associated with the noncommercial distribution of PET radioactive drugs. For example, the consortium members must be in the same geographical area because of the short half-lives of PET radionuclides, e.g., 1.8 hours for fluorine-18, 20 minutes for carbon-11, and 2 minutes for oxygen-15. The location of the PET radionuclide production facility is limited to an educational institution or a Federal facility or a medical facility because these are the noncommercial facilities that would have cyclotrons that could produce PET radionuclides.

The NRC will review PET radionuclide production applications and their radiation safety programs in accordance with the criteria in 10 CFR 30.32 and 30.33 and other applicable requirements. In the proposed rule, only the noncommercial transfer of PET radioactive drugs between 10 CFR part 35 medical use licensees was considered. However, the NRC recognized that the entity within the consortium with the PET production operation may not be a medical licensee, but a university or Federal facility. In addition, the radionuclide production facility requires a specific license under 10 CFR part 30. For this reason, the labeling provisions in 10 CFR 35.69, which would only have applied to medical licensees, were relocated from 10 CFR part 35 to 10 CFR part 30.

The new definition of *Consortium* and the provisions for noncommercial distribution are added to 10 CFR 30.4, 30.32, and 30.34 to allow for authorization of the production of PET radioactive drugs for noncommercial transfer to medical use licensees within a consortium. Thus, under these new provisions, a medical use facility, educational institution, or Federal facility with a licensed PET radionuclide production facility within its consortium does not need a medical distribution license under 10 CFR 32.72 if it intends to transfer PET radioactive drugs to members of its consortium. If it intends to commercially distribute PET radioactive drugs or distribute to medical licensees outside of its consortium, then a medical distribution license under 10 CFR 32.72 would be required. In any event, a specific authorization would be required to produce the PET drugs for noncommercial transfer to medical use licensees within its consortium. The requirements for authorization to produce PET drugs for noncommercial transfer to consortium members and the definition of Consortium are being added to 10 CFR 30.4. Specific requirements applicable to this licensed activity are added to 10 CFR 30.34(j). These requirements parallel the requirements for the commercial distribution of PET radioactive drugs, e.g., the licensee is qualified to produce radioactive drugs, the labeling contains consistent information, transport containers are adequately shielded, and radioactivity is accurately determined. Noncommercial distribution of PET radioactive drugs within a consortium may occur among members that are located in the same geographical area even if in different jurisdictions (e.g., Federal facility or other NRC licensees and Agreement State licensees). Thus, these new provisions are being assigned a Compatibility Category B.

Minor revisions were proposed to 10 CFR part 35 to permit medical use facilities to receive PET radioactive drugs by noncommercial transfer and to permit the medical use licensee to use activity values or activity concentration values for these PET radioactive drugs based on the measurements made by a PET radioactive drug producer within its consortium. The final rule also includes these provisions (in 10 CFR 35.65(b)(2) and (c)(3), 35.100(a), 35.200(a), and 35.300(a)), but the provisions are revised to clarify that the PET radioactive drugs have been produced by, and the measurements made by, the licensee authorized under 10 CFR 30.32(j) to produce PET radioactive drugs for noncommercial transfer to members of its consortium.

Authorized Nuclear Pharmacists (ANPs) and Authorized Users (AUs).

No regulatory changes were needed for ANPs to use all byproduct material (i.e., reactor-produced radionuclides, PET radionuclides, and other accelerator-produced radionuclides) to prepare PET radioactive drugs and other radioactive drugs under the practice of pharmacy. Medical use licensees that receive PET radionuclides that are added to "cold kits" may continue to prepare them under the same authorization in 10 CFR 35.100(b), 35.200(b), and 35.300(b) as other unsealed byproduct materials for medical use. However, a minor revision was made to each of these sections to clarify that the ANP and the qualified AU were not authorized under these sections to produce radionuclides.

Further, to ensure the availability of radioactive drugs made from accelerator-produced radionuclides, nuclear pharmacists responsible for the preparation of only PET or other NARM radioactive drugs under the NRC's waiver (70 FR 51581; August 31, 2005) will be "grandfathered" and will not be required to meet the new training and experience requirements as long as their duties and responsibilities under the new license do not significantly change. The "grandfathering" provisions are included in the revised provisions of 10 CFR 35.57 and 10 CFR 32.72(b)(4). The licensee is required by 10 CFR 32.72(b)(5) or 10 CFR 35.14(a) to document that these individuals were responsible for the preparation of only PET or other NARM radioactive drugs when the waiver was in effect.

To ensure a smooth transition and availability of radioactive drugs and sealed sources made from accelerator-produced radionuclides for medical use, those individuals, i.e., physicians, podiatrists, dentists, and radiation safety officers (RSOs), who used only NARM byproduct materials for medical uses under the NRC's waiver (70 FR 51581; August 31, 2005) will also be "grandfathered" in 10 CFR 35.57 as long as their duties and responsibilities do not change significantly. These new grandfathering provisions are limited to those who used only NARM during the waiver, because any prior use of "old" byproduct material would have been subject to the existing requirements for being an AU or ANP or RSO.

These grandfathering provisions were in the proposed rule. However, the final rule does not include revisions to the definition of an *Authorized user* or *Authorized nuclear pharmacist* in 10 CFR 35.2. The NRC concluded that the definitions did not need to be revised because the grandfathering provisions for the RSOs, medical physicists, nuclear pharmacists, physicians, dentists, and podiatrists, who used only accelerator-produced radioactive material, were included in 10 CFR 35.57. Language has been added to 10 CFR 35.57 to clarify that these individuals qualify as AUs and ANPs for purposes of the regulations in part 35. In addition, these individuals could continue to work as AUs, Authorized medical physicists (AMPs), or ANPs under the notification provisions of 10 CFR 35.13 and 10 CFR 35.14.

The radiation safety knowledge needed to safely use NARM for medical uses or for use in the practice of pharmacy is similar to that for other byproduct material. Therefore, individuals who only used NARM radioactive drugs or sealed sources in the practice of medicine or pharmacy will be authorized for use of all similar byproduct material for the same uses. The reverse is also true that individuals already authorized to use byproduct material in 10 CFR part 35 for medical use or for use in the practice of pharmacy are authorized to use NARM. Further, no changes were made to the training and experience criteria in 10 CFR part 35 for any authorized individual.

Actions Taken To Ensure Availability of Accelerator-Produced Radioactive Drugs

In summary, to minimize the regulatory impact on the availability of accelerator-produced radioactive drugs, the NRC is taking the following actions: (1) Applying its established regulatory framework to the commercial distribution of these drugs; (2) expanding the regulations to permit production of PET drugs by medical use licensees, educational institution licensees, and Federal licensees for noncommercial distribution to members of their consortium; (3) permitting medical use licensees to use activity or activity concentration values measured by the PET radioactive drug producer in their consortium when determining dosages; (4) "grandfathering" current medical and pharmacy users of accelerator-produced radioactive drugs; and (5) retaining the existing training and experience criteria in 10 CFR part 35 for authorized individuals.

In addition, as discussed under "Implementation Strategy" in this document, the NRC is revising Parts 30, 32, and 35 to authorize persons that used accelerator-produced radioactive material under the NRC's waiver (70 FR 51581; August 31, 2005) to continue to use these materials after the waiver is terminated, provided that these persons apply for a license or request for a license amendment within the allotted time frames. This regulatory provision allows all persons, including those who manufacture, produce, transfer, receive, acquire, own, possess, or use these materials, to continue with their activities including medical activities until the NRC makes its final licensing decision. This provision also ensures the availability of accelerator-produced radionuclides, radioactive drugs, and sealed sources and devices used for medical uses.

Amendments and Notifications for PET Radionuclide Production and Delivery Lines

The NRC reviewed its regulations in 10 CFR Part 35 to determine if there were radiation safety provisions in its existing regulations that needed revision to incorporate unique radiation safety issues associated with the use of accelerator-produced radionuclides for medical use. The medical use of extremely short-lived radionuclides, e.g., oxygen-15, requires that a PET radioactive drug containing this radionuclide be administered in the imaging and localization medical use area (10 CFR 35.200) immediately after the radionuclide is produced by the cyclotron and processed as a radioactive drug. This necessitates that the medical use area be co-located with the cyclotron or have a PET radioactive drug delivery line from the PET radionuclide production/PET radioactive drug processing area. This introduces the potential for a high radiation area in a medical use area that would otherwise be a low radiation area. This is a unique situation and was not envisioned when the NRC developed the requirements that permitted licensees to make changes in the areas where byproduct material is used only in accordance with 10 CFR 35.100 or 10 CFR 35.200 without submitting a license amendment. As a result, changes have been made to the requirements in revised 10 CFR 35.13, "License amendments," 10 CFR 35.14, "Notifications," and 10 CFR 35.15, "Exemptions regarding Type A specific licenses of broad scope." The final rule provides that an amendment is required for a limited specific medical use licensee in the unique situation described previously if the changes involved movement of the cyclotron or a PET radioactive drug delivery line from the PET radionuclide production/PET radioactive drug processing area. Changes to the typical 10 CFR 35.100 and 10 CFR 35.200 medical use areas are not affected. Section 35.15 is revised to clarify that a licensee possessing a Type A specific license of broad scope would not need to meet the notification requirements in 10 CFR 35.14(b)(5) for any changes to the area of use identified in its application where byproduct material is used in accordance with 10 CFR 35.100 or 10 CFR 35.200. This provision was revised from the proposed rule.

Strontium/Rubidium Generators

Contamination limits for strontium-82/rubidium-82 generators and related requirements consistent with similar provisions of the SSRs are added to 10 CFR part 35. The contamination limits are no more than 0.02 kBq of strontium-82 per MBq of rubidium-82 chloride injection (0.02 μCi of strontium-82 per mCi of rubidium-82 chloride), or no more than 0.2 kBq of strontium-85 per MBq of rubidium-82 chloride injection (0.2 μCi of strontium-85 per mCi of rubidium-82). These limits and requirements to measure the contamination for compliance with these limits are added to 10 CFR 35.204, with corresponding recordkeeping requirements added to 10 CFR 35.2204. A corresponding provision for these tests and associated recordkeeping is also added to 10 CFR 30.34 for nonmedical use licensees, such as commercial nuclear pharmacies, using these generators.

Appendix B to Part 20—Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage

The comparable provisions in Part D of the SSRs do not include any new accelerator-produced radionuclides other than the ones already in 10 CFR part 20, Appendix B. The NRC considered whether some other radionuclide-specific values should be added to 10 CFR part 20, Appendix B. Because nitrogen-13 and oxygen-15 are two of the accelerator-produced radionuclides that are produced for medical uses, the NRC performed a preliminary calculation of values based on dose factors published in National Council on Radiation Protection and Measurements (NCRP) Report No. 123 on Screening Models for Releases of Radionuclides to Atmosphere, Surface Water, and Ground. Certain dose conversion factors were not readily available. Results from these preliminary calculations yielded a derived air concentration (DAC) based on the submersion scenario for both nitrogen-13 and oxygen-15 of about 1.48×10^{-2} becquerels per milliliter (Bq/ml) (4×10^{-6} μCi/ml) for occupational exposure and a corresponding effluent concentration of 7.4×10^{-4} Bq/ml (2×10^{-8} μCi/ml) for exposure of members of the public. These calculated values are larger than the default values for DAC and effluent concentration by a factor of 40 and 20, respectively, in 10 CFR part 20, Appendix B. Because the approach used in calculating values for nitrogen-13 and oxygen-15 is different from that used for other radionuclides included in 10 CFR part 20, Appendix B, the NRC did not include adding specific values for these radionuclides in the proposed rule. Because certain medical communities had expressed the desire of having specific DACs for these two radionuclides, the Commission specifically requested public comment on the default values, and whether it should include larger specific values for oxygen-15 and nitrogen-13 in the final rule. As a result of comments, these values have been added to 10 CFR part 20, Appendix B, in the final rule. This is discussed further in this document under "Summary and Analysis of Public Comments on the Proposed Rule."

Emergency Planning

The regulations in 10 CFR 30.32(i)(1) require applications for specific licenses for byproduct material in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release," to contain either an evaluation showing that the maximum dose to a person offsite, due to a release of radioactive materials, would not exceed 0.01 sievert (Sv) (1 rem) effective dose equivalent or 0.05 Sv (5 rems) to the thyroid, or an emergency plan for responding to a release of radioactive material. Schedule C also contains a release fraction for each radionuclide against which aspects of the evaluation submitted in place of an emergency plan must be compared in accordance with 10 CFR 30.32(i)(2).

Although Part P, "Contingency Planning for Response to Radioactive Material Emergencies," of the SSRs addresses an emergency plan, a value for radium-226 is not specifically listed. The NRC staff therefore considered NUREG–1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees," dated August 1991. NUREG–1140 was used as the technical basis in a past rulemaking effort related to quantities of radioactive materials requiring an emergency plan. NUREG–1140 provided the basis for 10 CFR 30.72 Schedule C values. Schedule C also contains a default value for alpha emitters of 74 gigabecquerels (GBq) (2 curies (Ci)) (with release fraction 0.001), which would apply to discrete sources of radium-226 absent a specific value being added to the table. However, the quantity value for radium-226 in NUREG–1140 is 3.7 terabecquerels (TBq) (100 Ci) along with a release fraction value of 0.001. This final rule adds radium-226 with the quantity 3.7 TBq (100 Ci) and release value 0.001 to 10 CFR 30.72 Schedule C, which is consistent with the technical basis for the original emergency planning requirements. It is expected that few, if any, licensees, or applicants for a license, would have 3.7 TBq (100 Ci) of discrete sources of radium-226. Because the "rule of ratios" applies (See Footnote 1 to 10 CFR 30.72), licenses authorizing other byproduct material, in quantities approaching values that would require emergency planning, which are being amended to add significant quantities of discrete sources of radium-226, could potentially result in authorizing total quantities of byproduct material that would meet the criteria for emergency plan requirements. It is not expected that accelerator-produced radioactive materials are used in significant enough quantities to affect the applicability of emergency plan requirements.

Low-Level Radioactive Waste and Decommissioning

Low-Level Radioactive Waste

Section 651(e)(3) of the EPAct mandates that the newly added byproduct material is not considered to be low-level radioactive waste for the purposes of the Low-Level Radioactive Waste Policy Amendments Act (42 U.S.C. 2021b) (LLRWPAA). The intent of this provision is that the newly added byproduct material is not to be impacted by the compact process of the LLRWPAA. This provision does not have an impact on the NRC's policy and requires only a minor change to the regulations to ensure that the term "low-level radioactive waste," when used in the NRC's requirements, does not include the newly added byproduct material.

Although the newly added byproduct material is not considered low-level radioactive waste, it does pose a similar hazard, and it does need to be disposed of appropriately. Section 651(e)(3) of the EPAct requires that the newly added byproduct material must be disposed of in a facility that: (1) Is adequate to protect public health and safety; and (2) is licensed by the Commission or by an Agreement State. Even though it is not low-level radioactive waste, this provision clarifies that the newly added byproduct material is to be disposed of in a facility licensed by the NRC under 10 CFR part 61 or the Agreement State requirements, which are compatible to 10 CFR part 61. This provision also allows for the disposal of the newly added byproduct material in a facility licensed by the NRC under other parts of the NRC's regulations, such as facilities licensed under 10 CFR part 40, Appendix A.

To ensure that disposal facilities licensed under 10 CFR part 61 continue to be adequate to protect public health and safety, the NRC must consider the specific health and safety issues associated with disposal of discrete sources of radium. Rather than making any changes to 10 CFR part 61 at this time, the NRC will evaluate any specific disposals of discrete sources of radium at an NRC-licensed disposal facility under 10 CFR 61.58, "Alternative requirements for waste classification and characteristics." The NRC has not identified any other radionuclides being added to the definition of Byproduct material that require any specific evaluations to ensure the proper disposal of waste in accordance with 10 CFR part 61.

Notwithstanding the previously mentioned provisions for the NRC or Agreement State licensing of the disposal facility for the newly added byproduct material, Section 651(e)(3) of the EPAct does not affect the authority of any entity to dispose of the newly added byproduct material at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act. This means that Federal and State solid or hazardous waste laws can continue to be used as an authority to permit disposal of this newly added byproduct material. Disposal solutions already in place to allow disposal of the newly added byproduct material are unaffected by the EPAct. To implement this provision of the EPAct, the NRC is changing its regulations in 10 CFR Part 20 to redefine Waste to allow disposal of the newly added byproduct material in the NRC-regulated disposal facilities or in a disposal facility permitted under Federal or State solid or hazardous waste laws.

Appendix G of 10 CFR Part 20, the uniform manifesting requirements for low-level radioactive waste, includes numerous requirements containing the words "low-level radioactive waste" and "waste." This is potentially confusing because the newly added byproduct material is not low-level radioactive waste in accordance with the provisions of the EPAct. However, no changes have been made to Appendix G to 10 CFR Part 20. The text changes made to the 10 CFR Part 20 regulations to clarify that the newly added byproduct materials are not "low-level radioactive waste" make it clear that the Appendix G to 10 CFR Part 20 requirements must be met if any of the newly added byproduct material waste is to be disposed of at a facility licensed under 10 CFR Part 61 or an equivalent Agreement State rule.

Decommissioning Issues

The inclusion of accelerator-produced radioactive material that is used for a commercial, medical, or research activity, in the definition of *Byproduct material*, requires the NRC to ensure that decommissioning funding is adequate at accelerator facilities to adequately decontaminate and decommission their facilities for license termination. Radioactive materials produced in accelerator facilities, that are produced, extracted or converted after extraction for use for commercial, medical, or research purposes and that are no longer residing in the accelerator, are not a concern for decommissioning. However, materials intentionally or incidentally made radioactive as a result of the production of the radioactive materials for use for commercial, medical, or research purposes must be managed safely. Any radioactive material residing in the accelerator or within the facility that houses the accelerator must be adequately considered for safe operation, and managed appropriately at the time of decommissioning of the accelerator-produced radionuclide production facility, including the accelerator, and the NRC must ensure that adequate financial assurances are put in place to address the costs of decommissioning when the radionuclide production operation ceases, and the accelerator is shutdown, and the license is terminated. As with all decontamination and decommissioning situations, short-lived radionuclides are expected to decay to safe levels before license termination. Therefore, only radionuclides with a half-life of more than 120 days, that are present in sufficient quantities specified in 10 CFR 30.35, need to be addressed for the purposes of establishing adequate financial assurances for decommissioning.

Similarly, the addition of discrete sources of radium-226 in the definition of *Byproduct material* requires the NRC to ensure that decommissioning funding is adequate for holders of specific licenses for possession of discrete sources of radium-226. Radium-226 is already included in Appendix B of 10 CFR Part 30 to determine the required level of financial assurance for holders of specific licenses in accordance with the requirements of 10 CFR 30.35. Therefore, applicants for specific licenses to possess discrete sources of radium-226 will need to assure that adequate financial assurances are provided for the types of sources and the total amount of radium-226 contained in the sources they will possess. Holders of general licenses for possession of discrete sources of radium-226 do not need financial assurance for decommissioning. However, in accordance with the approach for general and specific licensing of discrete sources of radium-226 being undertaken by the NRC in this final rule, a general licensee may become subject to specific licensing if the accumulated number of discrete sources of radium-226 exceeds the allowable quantities of a general license. If a general licensee becomes subject to specific licensing, the licensee would be required to acquire the financial assurances required under 10 CFR 30.35.

The NRC believes that the financial assurance requirements included in 10 CFR 30.35 are adequate to ensure that any person who will receive a specific license authorizing possession and use of byproduct material will be required to have adequate financial assurance in place for decommissioning the facility. Therefore, the NRC is not changing the regulations governing financial assurance for decommissioning.

The NRC is cognizant of the potential existence of facilities and sites which may be, or have the potential to become, contaminated with significant amounts of radium-226 from past practices or operations. Additionally, the potential exists for significant quantities of discrete sources of radium-226 to have been previously disposed of by both licensees and nonlicensees at their facilities. The existing requirements for licensing and decommissioning in 10 CFR Part 30 are sufficient to address these situations for any facilities that will apply for a specific license or amendment to authorize possession of discrete sources of radium-226 for their current operations. The applications to the NRC, in these cases, would include a facility-specific decommissioning plan that addresses the current contamination and any previous onsite disposals.

There are no similar assurances for any facility that is currently contaminated from discrete sources of radium-226 but is not licensed. With the inclusion of discrete sources of radium-226 in the definition of *Byproduct material*, the NRC acquires the regulatory authority to address these situations where a specific license has not been issued (or where a potential licensee cannot be identified). At this time, there is not enough known about the breadth or depth of these potential radium-226 contamination situations to determine if any additional requirements may be needed to address them. Therefore, the NRC will address these situations on a case-by-case basis as they are identified following the effective date of this final rule.

D. License Application and Annual Fees

The NRC is required to recover approximately 90 percent of its budget authority each year under the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended. Therefore, the NRC charges licensing, inspection, and annual fees to its applicants and licensees. Each type of fee includes agency and program overhead. The NRC revises these fees each year in light of its current fiscal year budget and other factors, including changes in the regulatory efforts associated with the different classes of licensees.

Persons applying for a license with the NRC, or requesting an amendment to their current licenses that may result in the addition of a new fee category, are required to pay a license application fee under 10 CFR Part 170, unless exempt under the fee exemption provisions of 10 CFR 170.11. The application fees for materials users are "flat" fees that are calculated by multiplying the average professional staff hours needed to process the application by the professional staff-hour rate in 10 CFR 170.20 ($258 in the FY 2007 final fee rule). An application fee must generally be paid for each applicable fee category.

Additionally, all persons who hold licenses issued by the NRC are subject to annual fees under 10 CFR Part 171, unless exempt under the provisions of 10 CFR 171.11. The 10 CFR Part 171 fee categories, and the associated fees for materials users, are provided in 10 CFR 171.16, and must generally be paid for each applicable fee category. A licensee may request consideration as a small entity for the annual fees which may result in a reduced fee, as described in 10 CFR 171.16.

The annual fees for the materials users fee class are calculated based on the NRC's budgeted resources allocated to regulating these types of licensees, less any receipts received from this fee class for 10 CFR Part 170 activities. The net dollar value of budgeted resources for this fee class is allocated to all materials user fee categories (subclasses) based on the average application and inspection costs associated with each category. This approach provides a proxy for allocating the generic and other regulatory resources to the diverse categories of licensees based on how much it costs the NRC to regulate each fee category. The fee calculation also considers the inspection frequency (priority based), which is indicative of the safety risk and resulting regulatory costs associated with these categories of licenses.

The license application fees schedule is in 10 CFR 170.31. The annual fees schedule is in 10 CFR 171.16. The fee amounts included in the proposed rule were based on the FY 2005 fees. The fee amounts noted in the final rule are based on the final FY 2007 fees. The final 2007 fee rule was published June 6, 2007 (72 FR 31402).

The NRC believes that the majority of the NRC's licensees affected by this final rulemaking will be using radioactive material in a manner similar to their existing authorizations, and their existing fee categories should not change as a result of this rule. However, some licensees may need to amend their licenses to add one or more new fee categories, if applicable, for new uses and radioactive material now considered byproduct material, i.e., accelerator-produced radioactive material or discrete sources of radium-226.

The NRC is establishing three new fee categories for activities that were not previously covered by its regulations. The new fee categories apply to certain items previously manufactured and self-luminous products containing radium-226 and to the production of accelerator-produced radioactive material. In determining the fees for these new categories, the NRC evaluated existing fee categories that the NRC believes require a similar level of regulatory effort as these newly regulated activities for actions such as licensing, inspection, and event response.

Most individuals and other entities collecting items containing radium-226 are expected to be eligible to be exempt from license under 10 CFR 30.15 or for a general license under the new 10 CFR 31.12, "General license for certain items and other self-luminous products containing radium-226." Therefore, they would be subject to the requirements of 10 CFR 30.15 or 10 CFR 31.12 (e.g. proper disposal of the radioactive material). However, if a person collects more than the number of items or limits specified in these sections, that person will be required to obtain a specific license and be subject to the regulations regarding license application and annual fees. The NRC is establishing a new fee category, 3.R., with a two-tiered fee level, for those persons requiring a specific license for items containing radium-226. The distinction between the two fee levels is based on the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) and the estimate of the level of regulatory effort between the two levels. Licensees who currently possess radium sources in amounts that exceed the general license provisions of 10 CFR 31.12 would be required to add the sources to their specific license. This would normally subject the licensee to the fees in this new fee category. However, if the radium-226 sources are used for operational purposes that are covered under another fee category, the licensee will not be subject to the fees in this new fee category. This exception will not apply if the radium sources are possessed for storage only.

The first new fee Category 3.R.1. is for persons possessing quantities greater than the number of items or limits in 10 CFR 31.12(a)(4) or (5), but less than or equal to 10 times these quantities. Because the estimated level of regulatory effort is comparable to the level of effort for Category 8, Civil defense, the license application and annual fees for 3.R.1. will be $590 and $2,100, respectively. The second new fee Category 3.R.2. is for persons possessing quantities greater than 10 times the number of items or limits in 10 CFR 31.12(a)(4) or (5). The license application and annual fees for this new category, 3.R.2., will be $1,400 and $2,700, respectively, comparable to the fees for Category 3.P., "All other specific byproduct material licenses, except those in Categories 4A through 9D."

Persons who wish to disassemble, repair, or assemble products containing radium-226 will be required to obtain a specific license and will be subject to the applicable license application and annual fees. The NRC is including this use in fee Category 3.B., "Other licenses for possession and use of byproduct material issued under 10 CFR Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution." The license application fee for this category will be $4,600, and the annual fee will be $8,400.

The NRC is adding a new fee Category 3.S. for the production of accelerator-produced radioactive materials. The NRC is adding this new fee category because these production activities need to be distinguished from those activities that only involve the use of already-prepared radionuclides. The regulatory effort for the new fee Category 3.S. is estimated to be similar to that for fee Category 3.C. The license application and annual fees for this new category will be $8,000 for the application fee and $10,900 for the annual fee. The annual fee for category 3.S. in this final rule is slightly less than that for category 3.C. because the category 3.S. fee does not include a portion of the low-level waste (LLW) surcharge, while the category 3.C. fee does. This is because the licensees in fee category 3.C. directly benefit from the NRC's LLW activities, but the licensees in fee category 3.S. do not. Fee amounts included in this final rule are different from those included in the proposed rule because they are based on the FY 2007 Fee Schedules instead of the FY 2005 Fee Schedules.

E. Implementation Strategy

Specific provisions are included in this rule, and several actions are planned in conjunction with, or following, the issuance of this final rule covering the newly added byproduct material, including:

(1) Issuance and publication of a Transition Plan for the orderly

transition of regulatory authority for the newly added byproduct material;

(2) Termination of the waiver issued by the NRC (70 FR 51581; August 31, 2005) for the States and users of the newly added byproduct material; and

(3) Inclusion of specific provisions allowing users of the newly added byproduct material to continue with their activities for a period of time while coming into compliance with the newly issued regulations.

Transition Plan

Section 651(e) of the EPAct requires the NRC, in issuing new regulations for the newly added byproduct material, to prepare and publish a Transition Plan for the orderly transition of regulatory authority over the newly added byproduct material for Agreement and non-Agreement States. The EPAct requires that the Transition Plan describe the conditions under which a State (including U.S. Territories and the District of Columbia) may exercise authority over the newly added byproduct material, and include a statement of the Commission, that any agreement between the Commission and a State under Section 274b. of the AEA, covering byproduct material, and entered into before the date of publication of the Transition Plan, be considered to include the newly added byproduct material. The statement of the Commission is subject to a certification provided by the Governor of the State to the Commission on the date of publication of the Transition Plan that: (1) the State has a program for licensing the newly covered byproduct material that is adequate to protect the public health and safety, as determined by the Commission; and (2) the State intends to continue to implement the regulatory responsibility of the State with respect to the byproduct material. The NRC also will include in the Transition Plan the process it will use to terminate the waiver issued by the NRC on August 31, 2005, and for the transition of regulatory authority following expiration or earlier termination of the waiver.

Termination of Waiver

The waiver issued by the NRC (70 FR 51581; August 31, 2005) is effective through August 7, 2009 (except terminated August 7, 2006, for the import and export of materials covered by the waiver), unless terminated earlier by the Commission. The waiver applies to Agreement and non-Agreement State regulatory programs and users of the newly added byproduct material, and allows persons owning, using, and otherwise engaging in activities involving the material to continue with their activities and the States to continue to regulate this material during the applicable waiver period. All persons in States (including U.S. Territories and the District of Columbia) that do not have an agreement with the Commission under Section 274b. of the AEA that covers the newly added byproduct material on or before August 7, 2009, will automatically be subject to the NRC regulatory authority for the material on August 8, 2009. The waiver also may be terminated earlier than August 7, 2009, if the Commission determines that an earlier termination is warranted.

For a new or existing Agreement State that intends to implement the regulatory program of the State with respect to the newly added byproduct material, Section 651(e) of the EPAct requires that the waiver be terminated for the State when the Commission determines that the State has entered into an agreement with the Commission, under Section 274b. of the AEA, that the State program covers the newly added byproduct material, and that the State program for licensing the newly added byproduct material is adequate to protect the public health and safety. The Commission determination and termination of the waiver will be noticed in the **Federal Register** (Notification of Waiver Termination). Users of the newly added byproduct material currently licensed, or registered, by an Agreement State that continues to implement its regulatory program, with respect to the newly added byproduct material, will continue to be subject to the Agreement State regulatory authority.

With regard to the States that do not have an existing agreement with the Commission under Section 274b. of the AEA (non-Agreement States), the waiver period provides additional time for those States that desire to establish such an agreement for the newly added byproduct materials to develop a program. To establish this agreement with the Commission, the Governor of the current non-Agreement State will need to request an agreement with the Commission. The process of establishing these agreements can take 3 or more years to complete. Options will be considered, on a case-by-case basis, to limit the impact of the transition of authority on affected users of the new byproduct material in the State.

Additional details on the process that the NRC will use to terminate the waiver for Agreement and non-Agreement States and users in these States will be provided in the Commission's Transition Plan, as required by Section 651(e) of the EPAct. The NRC plans to publish the Transition Plan following publication of this final rule and before the effective date of this final rule.

Notification of Waiver Termination

The Commission is terminating the waiver for Government agencies and Federally recognized Indian Tribes on the effective date of this final rule because there is currently limited regulatory oversight for the newly added byproduct material at these facilities. Waiver termination is necessary to require Government agencies and Federally recognized Indian Tribes to comply with the new requirements and for the NRC to ensure protection of public health and safety for the newly added byproduct material.

The Commission has also determined that an earlier termination is warranted and is therefore terminating the waiver for persons owning, using, and otherwise engaging in activities involving the newly added byproduct material in the following States on the effective date of this final rule: Delaware, Indiana, Wyoming, and Montana, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The effective date of this final rule is 60 days after the date of publication in the **Federal Register**. Waiver termination is necessary to require persons owning, using, and otherwise engaging in activities involving the newly added byproduct material in these States, U.S. Territories, and the District of Columbia to comply with the new requirements and for the NRC to ensure protection of public health and safety for the newly added byproduct material.

Implementation Period

Although Government agencies, Federally recognized Indian Tribes, and certain persons owning, using, and otherwise engaging in activities involving the newly added byproduct material in the States of Delaware, Indiana, Wyoming, and Montana, and the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are already being regulated by the NRC for the AEA 11e.(1) and 11e.(2) byproduct material, the NRC is allowing a transitional period for them to submit a license amendment or a new license application for the newly added byproduct material. This final rule allows an additional 6-month period from the effective date of the final rule to apply for a license amendment; and an additional 12-month period from the effective date of the final rule to apply for a new license.

In addition, the rule contains specific provisions that gives Governmental agencies, Federally recognized Indian Tribes, and persons owning, using, and otherwise engaging in activities involving the newly added byproduct material, in the States of Delaware, Indiana, Wyoming, and Montana, and the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, the authority to continue to use the newly added byproduct material during the period following the waiver termination until the date of the NRC's final licensing determination, provided that either a license amendment or a license application is submitted within the specified time frame and while complying with all other aspects of the regulations (e.g., event reporting, personnel dosimetry) upon the effective date of this final rule.

For persons owning, using, and otherwise engaging in activities involving the newly added byproduct material, compliance with the rule will be required depending on the date of waiver termination. For certain States and persons, the NRC plans to terminate the waiver earlier than the final date of the waiver, i.e., August 7, 2009. A decision for early termination will depend on a number of factors, including the status of an Agreement State Governor's certification of adequate program for the newly added byproduct material, status of a non-Agreement State's application to become an Agreement State, and activities or areas under exclusive NRC jurisdiction. Upon waiver termination, all persons that possess the new byproduct materials must be in compliance with NRC regulations. It is noted that being in compliance with the NRC regulations includes, for example, meeting the reporting and recordkeeping requirements for the new byproduct material once the waiver is terminated. In addition, such persons will either be required to: (1) apply for license amendments for the new byproduct material within 6 months from the date the waiver is terminated, if they hold an NRC specific byproduct materials license; or (2) submit a license application for the new byproduct material within 12 months from the date the waiver is terminated. It is noted that authorization statements for certain licenses are inclusive of byproduct materials and their uses so that an amendment may not be needed to specifically add NARM to the license.

During the time between the termination of the waiver and the user's application for an NRC license or license amendment, users in Government agencies, Federally recognized Indian Tribes, and non-Agreement States will be under the NRC's jurisdiction for enforcement purposes. The NRC will handle enforcement cases involving the use of the newly regulated materials on a case-by-case basis. However, should the number of cases involving these materials be larger than anticipated, the staff will prepare additional enforcement guidance to ensure consistency in handling such issues.

III. Summary and Analysis of Public Comments on the Proposed Rule

The proposed rule on Requirements for Expanded Definition of Byproduct Material was published on July 28, 2006 (71 FR 42952). The comment period ended on September 11, 2006. The NRC received 39 comment letters on the proposed rule. Comment letters were submitted from the States, other Federal agencies, professional organizations, universities, medical communities, industries, and individuals. On August 22, 2006, the NRC held a public meeting in Las Vegas, Nevada, on the proposed rule during the comment period. Copies of the public comments and the public meeting transcripts are available for review in the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland.

In addition to requesting public comments on the proposed rule, the NRC specifically requested additional information or comments on 15 specific items outlined in Section II.G. of the proposed rule. A synopsis of the items and type of comments received are as follows:

Item 1—Technical Information to Support Exemption of Old Radium-226 Sources. One commenter provided information on potential pressure build-up within radium sources that could lead to the release of radium into the environment. Another commenter provided a reference to an FDA document. There were comments on the availability of information on radium-226 items and on exemption of antiquities. The NRC appreciates the information. A discussion of the comments on exemption of antiquities and associated response is included later in this document under "Comments Related to Radium-226."

Item 2—Extent of Use of Accelerators. No comments were received regarding the extent of accelerators that are used to intentionally produce radioactive material and also used to generate particle beams for basic science research. One commenter indicated that the commenter's organization does not operate any particle accelerators for the purpose of producing radioactive materials and producing particle beams for other uses. Another commenter informed the NRC that it will be building a new accelerator facility where radionuclides will be produced.

Item 3—Information on Decommissioning of Accelerator Facilities. Several comments were received regarding information on decommissioning of accelerator facilities, including accelerator components and facility building materials that may become activated. A detailed discussion of the comments and response is included later in this document under "Comments on Waste and Decommissioning."

Item 4—Inclusion of Specific ALI and DAC Values. In response to the NRC's question on whether to develop specific ALI and DAC values for oxygen-15 and nitrogen-13 for inclusion in 10 CFR Part 20, Appendix B, several commenters provided specific DAC values. A discussion of the values and the methodology used can be found later in this document under "Comments on Other General Requirements."

Item 5—Exemption of Radium-226 Timepiece Repairs. In regard to the appropriateness of the proposed exemptions to allow repairs of 10 radium-226 timepieces per year, one commenter suggested increasing the proposed limit of 10 per year to 18. The commenter did not provide specific data concerning how active the repair of radium-226 timepieces may be or the safety significance of the proposed exemption. However, there were several comments related to radium-226 exemptions. Detailed discussion of these comments and the associated responses is included later in this document under "Comments Related to Radium-226."

Item 6—Health and Safety Information of Radium-226 Sources. The NRC requested information on the health and safety impact from activities involving radium-226 sources, in particular, information to support a technical basis for an exemption as an alternative to the proposed general licensing approach. Several commenters indicated that they believed that an exemption would be preferable to a general license for items containing radium-226, but no specific health and safety impact information was provided. Most commenters agreed that more information about risk is needed to make a final decision. Discussion of comments associated with this issue is included later in this document under "Comments Related to Radium-226."

Item 7—Existing and Proposed Fee Categories. The NRC requested information on whether the majority of

licensees would remain in the existing fee categories and whether new NARM licensees would fall under the current fee categories or the new proposed fee categories. No specific information on this issue was received from the commenters. However, several commenters indicated that they believed that there is no need to establish a new fee category for the production of accelerator-produced radioactive material. All of the comments related to fees are discussed later in this document under "Comments on Licensing Fees and Fee Categories".

Item 8—Licensing Boundaries for Radium-226 Private Collectors. No information was received on whether private collectors of items or products containing radium-226 would remain within the boundaries of the proposed general license or be required to obtain a specific license and be charged with the associated licensing fees. One commenter recommended that an "exception" be extended to certain organizations. A discussion of radium-226 exemptions is included in subsection "Comments Related to Radium-226," and a discussion of fees is included later in this document under "Comments on Licensing Fees and Fee Categories".

Item 9—Two-Tiered Fees for Radium-226. No information was received regarding the two-tiered license fees proposed for possession of different quantities of radium-226 items. Comments received on the proposed fee categories and amounts are discussed later in this document under "Comments on Licensing Fees and Fee Categories".

Item 10—Effective Date and Implementation Periods. Several comments were received on the proposed effective date and implementation periods of the rule. A discussion is included later in this document under "Comments on Waiver Termination and Transitioning."

Item 11—Compatibility Category Designations. All comments related to the compatibility category designations are discussed later in this document under "Comments Related to Agreement States and Other Government Agencies".

Item 12—Environmental Assessment. Comments received on the draft Environmental Assessment were considered in the final Environmental Assessment and Finding of No Significant Impact.

Item 13—Information Collections. No comments were received on the information collections aspects of the rule.

Item 14—Regulatory Analysis. No comments were received on the draft Regulatory Analysis.

Item 15—Impact to Small Business. No comments were received on the impacts of the rule on small businesses.

General information and editorial suggestions received on the proposed rule are appreciated but do not need to be discussed in this final rulemaking. Comments associated with nuclear reactors and the high-level waste repository are outside the scope of this rulemaking; therefore, they will not be addressed in this section. All other comments have been grouped into broad categories, and a detailed discussion of the comments and the NRC's responses are as follows:

Comments Related to Agreement States and Other Government Agencies

Agreement State Compatibility Designations

Comment: The comments received on "compatibility" are primarily centered around one main concern: Implementation of the requirements for the Compatibility Category of Health and Safety (H&S) for several definitions. The basic concern expressed by these commenters was that the States should not be required to amend their definitions in their State statutes and regulations. In particular, some commenters were concerned about the designation of H&S for the definition of *Byproduct material*. These commenters indicated that they would support an H&S designation if the Statements of Consideration to the final rule provided that the NRC's initial determination of the adequacy of definitions would rely on a Governor's certification that the State's program was "adequate," and that if the Governor's certification was accepted, no changes to the State's definitions would be required. As an alternative, some commenters suggested that the Statements of Consideration recognize that the States could use alternative language in their definitions including the use of the more generic term of "radioactive material," rather than revise the definitions to conform with the new definitions. In the absence of implementing those suggestions, these commenters recommended that the Compatibility Category designation for definitions be changed from H&S to D.

These commenters generally indicated that if those suggestions could not be implemented, they would recommend that the NRC designate the definitions it was changing as Compatibility D.

NRC Response: The NRC does not agree with the commenters' assertion that the designation for the definition of *Byproduct material* should be changed from H&S. The NRC also does not agree that the Governor's certification of the adequacy of an Agreement State's program should relate to the need for the State to revise its regulations. However, the States may continue to use the existing definition including *Radioactive material* in State statutes and regulations, although there may be limited areas where a State may need to revise its regulations to include material now under the jurisdiction of the NRC (e.g., exempt distribution for certain materials).

The NRC applied the criteria in Management Directive (MD) 5.9, "Adequacy and Compatibility of Agreement State Programs," in evaluating the compatibility category of the definitions, and determined that a category of H&S is appropriate for the definition of *Byproduct material*. MD 5.9 provides that an H&S designation is appropriate for elements that are not required for compatibility but have been identified as having a particular health and safety role in the regulation of agreement material within the State. In accordance with this designation, the State should adopt program elements, based on those of the NRC, that embody the essential objectives of the NRC program elements because of particular health and safety considerations. A category of H&S is appropriate for the definition of *Byproduct material* because the absence of the essential objectives of the program element from an Agreement State program could create a situation that could directly result in exposure to an individual in excess of basic radiation protection standards.

MD 5.9 provides that the NRC program elements in Compatibility Category D are those that do not meet the criteria of Compatibility Categories A, B, or C, and thus, do not need to be adopted by the Agreement States for purposes of compatibility. The NRC has determined that a Compatibility D designation is not appropriate for the definition of *Byproduct material* because if the definition of *Byproduct material* or another term which encompasses all of the byproduct material regulated by the State were not somewhere within the State program (i.e., in statute or in regulations), it is possible that some byproduct material could escape regulatory oversight with a result of exposure to an individual in excess of the 10 CFR Part 20 limits. The State regulatory program must include Sections 11e.(3) and 11e.(4) byproduct

material in its regulatory program if the Agreement includes this material, thus, an H&S designation (an assessment of adequacy) is appropriate.

In implementing the Commission's policy on Agreement States, a designation of H&S for the definition of *Byproduct material* will require NRC staff to continue to assure that the essential objectives (i.e. Sections 11e.(3) and (4) byproduct materials are addressed in the regulatory program) are met. The NRC staff notes that under a designation of D, this assurance would not be obtained because program elements designated D are not a required part of an Agreement State program (they could be dropped from or not included in the Agreement State program, and the program could still be found adequate and compatible).

Comment: With regard to the definitions in 10 CFR 35.2 of *Authorized nuclear pharmacist, Authorized user,* and *Positron Emission Tomography (PET),* one commenter recommended that any Agreement State that has rule language essentially the same as the current CRCPD's SSRs should be considered to have compatible rules and should not have to revise those rules regardless of the level of compatibility assigned by the NRC. The commenter further recommended that the NRC might include this recognition in the Statements of Consideration.

NRC Response: The NRC has determined that it is not necessary to change the current definitions for an *Authorized user* or *Authorized nuclear pharmacist*. This rule does not change the existing definitions or impact the existing compatibility designation for these definitions. The definition of *Positron Emission Tomography* is not in the SSRs, and it is identified in the final rule as having a designation of "H&S," which assures that the State's regulatory programs adequately address the essential objectives of the NRC program elements when using the term *Positron Emission Tomography*.

Comment: For each of the sections with a Compatibility B Category, it is not clear that the NRC accepts the language of the States that is essentially identical to the SSRs.

NRC Response: For the definitions and sections assigned a Compatibility B designation, the NRC cannot automatically accept the States' language; the States' regulations must be reviewed. Agreement State regulations will be reviewed according to Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure 201 (SA–201) and should be submitted within 3 years of publication, in accordance with the NRC's 1997 Policy Statement on Adequacy and Compatibility of Agreement State Programs (62 FR 46517; September 3, 1997). The NRC notes that portions of the SSRs may be outdated and do not reflect recent amendments (e.g., definitions of *Authorized user* and *Authorized nuclear pharmacist*) and so cannot be used.

Comment: Referring to 10 CFR 32.72, a commenter recommends that the NRC specifically recognize that an Agreement State will not be required to amend its comparable regulation, as long as that comparable regulation provides for the same control of the manufacture and initial distribution of radium-226 sources under a general license as was provided in the proposed regulation.

NRC Response: The NRC does not agree with the comment. Section 32.72 in 10 CFR Part 30 authorizes specific licensees to manufacture, prepare, and distribute radioactive drugs to medical use licensees. This provision does not include generally licensed material. Further, the NRC is unaware of any radioactive drugs containing radium-226. Agreement States have 3 years to adopt regulatory requirements compatible with 10 CFR 32.72 revisions.

For a specific license to allow the manufacture or initial transfer of calibration or reference sources containing radium-226, under 10 CFR 32.57, for distribution to persons generally licensed, the NRC has included provisions in 10 CFR 31.8 to recognize specific licenses issued for these sources by a State with comparable regulations.

Comment: A commenter stated that the NRC's deliberate use of Compatibility B and H&S categories sets the tone that its considerations are preeminent. Another commenter stated that the language of the EPAct indicates that the burden should be on the NRC to bring its regulations into conformance with the Agreement State regulations. The commenter also stated that whether or not the NRC is making an effort to obey the EPAct language to cooperate with the States or use model State standards will depend on whether the NRC accepts the Agreement States' regulations. The commenter believes that the Agreement State regulations do not need to be changed to be exactly like the NRC's.

NRC Response: In accordance with AEA Section 274b, for an agreement between the NRC and a State, a State program must be adequate to protect public health and safety and be compatible with the NRC. The EPAct gives the NRC jurisdiction over NARM byproduct material, and does not mandate that the NRC bring its regulations into conformance with the Agreement State regulations, but only requires that the Commission, to the maximum extent practicable, cooperate with the States and use model State standards. The Commission has fulfilled this mandate by working closely throughout the development of this final rule with OAS, the CRCPD, and other stakeholders, and by considering the model State standards. As discussed previously, the NRC applied criteria laid out in MD 5.9, "Adequacy and Compatibility of Agreement State Programs," which includes criteria for the NRC to designate compatibility and adequacy categories to the NRC's regulations and coordinating amendments for radioactive material included in the Agreement. In promulgating the final rule, these criteria were applied to the definitions and other requirements of the EPAct to determine the appropriate compatibility categories.

Interaction With Other Federal Agencies

Comment: A commenter asked if any Memorandum of Understanding (MOU) between the NRC and the DOT on byproduct materials would be affected by the changes in the proposed rule.

NRC Response: The roles and responsibility between DOT and the NRC in the regulation of the transportation of radioactive material are clearly described in an MOU signed on June 8, 1979, and published in the **Federal Register** (44 FR 38690; July 2, 1979). As delineated in the MOU, the DOT is generally responsible for regulating safety in transportation of all hazardous material, including radioactive material, and the NRC is responsible for regulating safety in receipt, possession, use, and transfer of byproduct, source, and special nuclear materials. The NRC is also responsible for approval of package designs for fissile materials and for other radioactive materials in quantities exceeding Type A limits. In reviewing the language of the existing MOU, the NRC has determined that no change is necessary as a result of this final rule. The MOU stated that the NRC is authorized to regulate, among other things, byproduct material under the AEA of 1954, as amended, and the Energy Reorganization Act of 1974, as amended. Because the EPAct amends the AEA, the expanded definition of *Byproduct material* will automatically be subject to the MOU. In addition, there are routine interactions between the NRC and the DOT, and the DOT is aware of the expanded definition of *Byproduct material*.

Comment: A commenter asked if the proposed changes in the regulations would have any impact on accelerators or accelerator radionuclides that are taken to sea or out of the U.S., and if those changes would also impact the EPA's responsibilities, treaty requirements, or Status of Forces agreements. For example, the commenter noted that a research vessel, military hospital, or Centers for Disease Control vessel leaving the U.S. for foreign ports and returning to the U.S. may have an electron microscope or metabolic (Na, Cl, K) studies with accelerator-produced radionuclides on board. The commenter asked if activation from neutron radiography on board these ships would be an issue. The commenter also asked if the proposed changes would affect machines that the U.S. Customs uses to radiograph containers in foreign ports before they are placed on shipboard if the machine is greater than 1 MeV. The commenter also wanted to know how replaced parts of those machines will be handled, whether all parts would be controlled, and whether they could be disposed of in a foreign state.

NRC Response: The commenter appears to be concerned, in part, about regulatory requirements pertaining to U.S. originated accelerator-produced radioactive material taken outside of the U.S., i.e., export of accelerator-produced radioactive material. Part 110 of the NRC's regulations governs export and import of radioactive material within the NRC's regulatory jurisdiction. On April 20, 2006 (71 FR 20336), the NRC issued a final rule amending 10 CFR Part 110 to reflect the EPAct's augmentation of the NRC's regulatory jurisdiction to include accelerator-produced radioactive material. Specifically, the rule added "accelerator-produced radioactive material" to the definition of *Byproduct material* in 10 CFR 110.2 and Appendix L to 10 CFR Part 110. Export and import of all byproduct material, including accelerator-produced radioactive material, are governed by 10 CFR Part 110. There is no difference in regulatory treatment between byproduct material produced by an accelerator and byproduct material produced in a reactor.

The commenter also asks whether this rule would affect U.S. Customs' use of "radiograph machines." The NRC does not believe this final rule would have any impact on the Customs and Border Protection's use of radiograph machines because these machines use byproduct material that is already regulated by the NRC because the material is produced in a reactor. With the revised definition of *Byproduct material*, there will be no difference in regulatory treatment between byproduct material produced by an accelerator and byproduct material produced in a reactor. If the radiograph machine uses the accelerator-produced radioactive material, it would now be subject to the same regulatory requirements as the machine-used byproduct material produced in a reactor. The NRC's or any other requirements on the use of byproduct material in radiograph machines would be no different from the pre-EPAct condition for both the domestic and export context.

Neutron radiograph machines do not use byproduct material; they are actually accelerators. Only neutron beams are generated in these types of radiograph machines for imaging purposes. Because these types of radiograph machines (or accelerators) do not produce radioactive material for use for commercial, medical, or research activities, the NRC has no regulatory authority over these machines or the activation material produced incidental to imaging operation.

Comment: A commenter recommended that the NRC pursue an MOU with OSHA in order for the NRC to assume regulatory jurisdiction over the occupational exposure to ionizing radiation in non-Agreement States. The commenter noted that before the expansion of the NRC's jurisdiction over NARM, OSHA had jurisdiction for occupational health and safety in non-Agreement States. The commenter noted that OSHA published a request for information to better understand what, if any, changes OSHA needed to consider in its regulation of the use of ionizing radiation in the workplace (See: Occupational Exposure to Ionizing Radiation—Request for Information; 70 FR 22828; May 3, 2005). The commenter recommended that the NRC work actively with OSHA to streamline the regulatory requirements and eliminate duplication of authority over the use of NARM in non-Agreement States.

NRC Response: The NRC has been working, and continues to work, with OSHA and other Federal agencies through the Interagency Steering Committee on Radiation Standards (ISCORS) to coordinate issues and activities, including the development of Federal Guidance for Occupational Exposure to Radiation and regulations related to radiation protection and safety. The NRC recognizes that the existing MOU is now out of date with respect to references of enabling legislation and the respective jurisdictions of the two agencies as a result of the EPAct. However, the procedures specifying the interactions between OSHA and the NRC and the authority and responsibilities of each agency remain appropriate and valid to cover interactions in the newly enacted jurisdictional framework. Thus, the NRC does not believe that there is an imminent need to reexamine and update the MOU.

Comment: Several commenters requested clarification on the NRC's jurisdiction and role regarding radium-226 contaminated sites or old landfills, especially for sites currently under remediation by either the EPA or an authorized State under the RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also known as Superfund) programs. One commenter asked if the NRC and EPA have executed an MOU for Superfund sites. Another commenter asked if the NRC/EPA MOU on decommissioning (2002) will be impacted by this rule. Another commenter suggested that the NRC and EPA should have a dialogue to discuss a collaborative approach to address licensing of discrete sources covered by this rule that are already considered as part of the Superfund efforts. The commenter indicated that such dialogue would complement ongoing coordination between EPA and the NRC under the existing MOU, "Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites".

NRC Response: Under the EPAct, the NRC has the regulatory authority over any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of the act for use for a commercial, medical, or research activity. Hence, the NRC has the jurisdiction over old landfills or disposal sites contaminated with radium-226 due to past operations or disposal of discrete sources of radium-226.

The NRC typically has regulatory authority over sites undergoing radiological decommissioning, even those sites that also contain EPA hazardous materials (CERCLA and RCRA). The NRC and EPA have entered into site-specific agreements via formal letters in which the license for a site undergoing decommissioning was put in abeyance and regulatory authority for decommissioning the site deferred to the EPA. There is no MOU for these agreements because they are rare and very site specific. The NRC anticipates that this site-specific process will continue.

The current MOU "Consultation and Finality on Decommissioning and

Decontamination of Contaminated Sites" between the NRC and EPA defines the policy for deferral of regulatory authority between the two agencies for radiological decommissioning and decontamination of the NRC-licensed sites. The MOU specifically provides that under certain clearly defined criteria, EPA agrees to a basic policy of EPA deferral to the NRC decisionmaking in the decommissioning of the NRC-licensed sites without the need for consultation. If the criteria are not met, the MOU directs the NRC to consult with the EPA regarding the site. The MOU does not provide for the deferral of regulatory authority from the NRC to the EPA.

The NRC has routine interactions with EPA through ISCORS and through informal communications among staff on a multitude of subject areas. Currently, there are seven subcommittees in ISCORS, including Cleanup, Federal Guidance, Mixed Waste, Naturally Occurring Radioactive Material, Recycle, Risk Harmonization, and Sewage Sludge Subcommittees. The NRC will continue to work closely with EPA though ISCORS and other informal mechanisms regarding decommissioning and decontamination of sites.

Because the NRC had been deferring regulatory authority to the EPA on a site-by-site basis in the past, the NRC believes, at this time, that there may not be a need to revise the existing MOU. Once the NRC has gained sufficient experience in dealing with old disposal sites contaminated with the newly added byproduct material and if significant issues arise regarding shared regulatory authority, the NRC will cooperate with EPA in evaluating the need to amend the existing MOU and in determining an approach in resolving issues in managing these old disposal sites.

Comment: A commenter noted that the discussions on current regulatory structures for NARM, and on other Federal agencies' regulatory authority over NARM, do not mention that some Federal licensees, such as licensees who hold a Master Materials License (MML), have established self-regulation requirements for NARM use. The commenter recommended that the NRC should describe the MML licensees' role in the regulation of NARM.

NRC Response: MML licensees are the NRC licensees and are required to comply with the NRC regulations. The fact that some MML licensees have established self-regulating requirements for accelerator-produced radioactive material and may-have issued permits to their permittees for these materials is noted.

Comment: A commenter stated that requirements under several sections related to a master materials license address "a permit issued by a Commission master material license broad scope permittee" with the implication that a broad-scope permittee is required to issue such a permit. The commenter stated that, in most cases, the permittee might issue an authorization or other type of document for an AU. The commenter requested that the regulatory requirement be revised as "a permit, or other authorization, issued by a Commission master material license broad-scope permittee".

NRC Response: The NRC does not agree that this language is ambiguous. The use of the phrase "a permit issued by a Commission broad scope licensee" has been used by the NRC in 10 CFR Part 35 since the 1994 "Radiopharmacy Rule" (59 FR 61781; December 2, 1994) to designate the document that the broad-scope Radiation Safety Committee issues to individuals to permit or authorize them to use specific radionuclides for licensed activities. The same term was used in the major revision to 10 CFR Part 35 (67 FR 20370, April 24, 2002) for the same type of documentation issued by the MML broad-scope permittee to individuals at its facility.

Comments on Defining the Byproduct Material

Comment: A commenter, discussing the proposed *Byproduct material* definition in 10 CFR 20.1003 and 30.4, believes the wording "produced, extracted, or converted after extraction, before, on, or after August 8, 2005," was confusing and ambiguous, stating that the phrase, "before, on, or after August 8, 2005," appears to be meaningless and that it was not clear whether the phrase referred only to material "converted after extraction," or to material "produced, extracted, or converted after extraction".

NRC Response: The phrase, "before, on, or after August 8, 2005," has been incorporated into the definition of *Byproduct material* in the AEA as a result of the language of the EPAct. It is included in the definition in the final rule because it is important to be clear that materials that have been produced, extracted, or converted after extraction at any time, even before promulgation of the EPAct, are included. This phrase is intended to apply to all of these activities, i.e., the production, extraction, and conversion after extraction. Not having such an explicit phrase in the definition may raise questions regarding applicability of the regulations for materials resulting from past activities.

Definition of Discrete Source

Comment: Commenters generally supported the stated result of the definition as to the limits of NRC's authority and specifically the proposed limitation of the definition to exclude radium-bearing wastes generated by many facilities, including drinking water treatment plants and oil and gas production facilities. One commenter specifically agreed with the definition stating that it captured the important aspects of the discussions at the public and interagency meetings, as well as the original intent of earlier versions of legislation incorporated into the EPAct. However, other commenters expressed concerns about the clarity of the definition. Several commenters stated that some of the provisions in the proposed definition of discrete source, such as the requirements that the source have physical boundaries and that the materials have been concentrated for their radiological properties, were ambiguous and could lead to uneven regulation. The commenters recommended that the NRC revise the proposed definition, and two commenters suggested alternate definitions.

One commenter stated that the phrases "with physical boundaries" and "which is separate and distinct from the radioactivity present in nature" in the proposed definition of *Discrete source* could cause confusion. The commenter stated that the requirement for physical boundaries without further description or statement of the purpose of the physical boundaries is ambiguous and leaves room for uneven regulation. Commenters were also concerned with the words, "which is separate and distinct from the radioactivity present in nature," particularly with the usage of "radioactivity." One commenter stated that a workable definition is crucial to keep unintended materials from being captured.

Other commenters expressed concern about the phrase, "with the intent that the concentrated radioactive material will be used for its radiological properties," with one commenter recommending that it be deleted. This commenter noted that it has encountered situations where discrete sources of radium-226 were deposited over a large area of land in which there were discrete nuggets and that there was no way of determining whether the discrete nuggets were produced for their radiological properties or not.

NRC Response: The proposed definition of *Discrete source* was "a radioactive source with physical boundaries, which is separate and distinct from the radioactivity present in nature, and in which the radionuclide concentration has been increased by human processes with the intent that the concentrated radioactive material will be used for its radiological properties." It is clear from some of the comments that the proposed definition of *Discrete source,* particularly the phrase "with physical boundaries," creates confusion that would, among other things, present problems with the regulation of material no longer in its original form, but which the NRC intends to regulate.

The wording in the final rule has been revised to clarify the ambiguities that gave rise to these comments. The revised definition of *Discrete source* is "a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities".

With the modification of the definition of *Discrete source* to eliminate the word "separate" and the phrase "with physical boundaries," radium contamination resulting from the use of purposely concentrated radium-226 falls within the definition of *Discrete source.* These changes should make it clearer that the NRC's jurisdiction continues through decommissioning. The radiological criteria for unrestricted use in 10 CFR 20.1402 refer to residual radioactivity that is distinguishable from background. Some commenters appeared concerned that for purposes of decommissioning, it would not be possible to distinguish between the atoms of material that had been purposely concentrated for use for its radiological properties from atoms of material present in nature. This concern is not warranted because, in practice, this is not the methodology used to determine the need for decontamination.

The revised definition also removes the requirement that the purpose for concentrating radium-226 (or other identified naturally occurring radioactive material) be specifically for use of its radiological properties. However, this change is not expected to have any practical effect on the regulation of radium-226, as all known uses of radium-226 have been for its radiological properties and not primarily its chemical or physical properties. The only effect of revising the definition would be if a future use is made of a highly radioactive naturally occurring material involving chemical or physical, but not radiological, properties. To constitute byproduct material as it is now defined in Section 11e.(4) of the revised AEA, this material would have to have been determined by the Commission to meet the standard of threat similar to that of radium-226.

The comments on the definition of *Discrete source* relate mainly to questions concerning what naturally occurring radioactive material will be considered byproduct material, and thus be regulated by the NRC. In revising the definition of *Discrete source,* the Commission has also added the condition that to be a discrete source, the radionuclide has been processed so that its concentration within a material has been purposely increased "for use for commercial, medical, or research activities." The addition of this limiting phrase may appear redundant, as the words "for use for a commercial, medical, or research activity" are already in the definition of Byproduct material, and a discrete source is a subcategory of byproduct material. However, the addition of these words to the definition of *Discrete source* ensures an understanding that the term "discrete source," where used in the regulations other than in the definition section of the regulations, will be subject to this limitation.

The Commission interprets the words in the definition of Byproduct material, "produced, extracted, or converted after extraction for use for a commercial, medical, or research activity," to mean a purposeful activity whereby the radium-226, or other specific radionuclide, if identified in accordance with Section 11e.(4) of the revised AEA, is processed for the use of the radium-226 (or other specific radionuclide). This purposeful activity must relate to the radium-226 (or other radionuclide) and not to the overall material that inadvertently contains radium-226, for example, fertilizer. However, this activity need not involve an actual isotopic separation process specifically separating radium-226 from radium-228. In addition, the "new" byproduct material consists of the specific radionuclides only, and not the associated material. For example, in a radium salt, the atoms other than those of radium in the salt are not part of the byproduct material. The NRC notes that the original definition of Discrete source, as it had been proposed, was written to contain strict constraints to guard against any potential interpretation that the NRC was extending its jurisdiction in an unintended or unauthorized manner. However, the NRC has found that these constraints were, in a large part, unwarranted because, as already noted, a discrete source is a subset of the specifically delineated byproduct material that is being regulated and must, therefore, be constrained by the general definition of the new Byproduct material. In this connection, the NRC also removed the words "distinct from the radioactivity present in nature" as an unnecessary condition.

Comment: Some commenters had questions concerning the regulatory authority over the manufacture of radiological sources and the associated waste management. One commenter noted that the EPAct does not assign responsibility to the NRC for regulating the manufacture of discrete sources, rather, the NRC's responsibility applies after a discrete source is produced. The commenter asked whether the Agreement States would be required to regulate the manufacturing and waste management aspects of source production, and also who is responsible for radiological safety if the manufacturing occurs in a non-Agreement State. Another commenter asserted that the manufacture of radium sources should be specifically licensed, even though the radium may not yet meet the definition of a Discrete source.

NRC Response: The EPAct gave the NRC authority to regulate radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment for use for a commercial, medical, or research activity. Therefore, the NRC does have authority for regulating the manufacture of sources, and the NRC's responsibility applies before, on, or after a source is produced. This should be more evident with the revised wording of the definition of Discrete source. Radium-226 is byproduct material and under the NRC's jurisdiction if it is purposely concentrated and produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity.

Section 30.3, "Activities requiring license," states "Except as provided in paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section and for persons exempt as provided in this part and part 150 of this chapter, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter." Therefore, the NRC will regulate the manufacture of products involving the intentional use of discrete sources of radium-226, as well as resulting wastes. A specific license will be required for the manufacture of such radium sources.

Comment: A commenter asked if the proposed definition of Discrete source would include sources that are electroplated, i.e., where the radioactivity is on the surface of the source and is not encapsulated and therefore is not separate from nature (such as radium needles).

NRC Response: Electroplated sources are included as the wording of the definition in the final rule clarifies.

Comment: A commenter recommended that the NRC add the definition of Discrete source to 10 CFR Part 35 in addition to 10 CFR Parts 20 and 30.

NRC Response: The NRC Part 35 licensees are required to comply with 10 CFR Parts 20 and 30. The term Discrete source is being defined in those regulations. Therefore, it is not necessary to repeat the definition in Part 35.

Other Naturally Occurring Radioactive Material

Comment: Two commenters asserted that they believe the NRC should consider other criteria in addition to the International Atomic Energy Agency Code of Conduct Categories 1 and 2 to determine if there are any other nuclides that would pose a threat to public health and safety and common defense and security similar to that posed by a discrete source of radium-226.

One commenter did not believe that using IAEA Categories 1 and 2 to measure the risk of other nuclides against the risk posed by discrete sources of radium-226 meets the EPAct requirement to consider comparative risk to public health and safety as well as common defense and security. The commenter stated that within the U.S., IAEA Categories 1 and 2 have been associated with "high-risk" sources and activities of concern to common defense and security, not to health and safety. The commenter argued that instead, because IAEA regards uncontrolled Categories 1, 2, and 3 sources as potentially dangerous to human health, Category 3 is also a threat, and the NRC's analysis should at least include that Category in addition to Categories 1 and 2.

However, the commenter agreed with the NRC that polonium-210 does not need to be included in the definition of *Byproduct material* under the category of naturally occurring radioactive materials posing a similar risk as radium because the production of polonium-210 discrete sources for commercial, medical, or research use is by activation in a reactor, and therefore it is already regulated as byproduct material.

Another commenter asked if, by using IAEA Categories 1 and 2 to measure other nuclides' comparative risk to radium-226, the NRC meant to only regulate materials that could be fatal or cause permanent injury if they are not safely managed or securely protected. The commenter asked whether discrete sources of radium-226 that do not meet the IAEA Category 1 or 2 definitions would not be regulated in the expanded definition of Byproduct material. The commenter asserted that regulations for radioactive materials should not be based solely on acute effects.

NRC Response: The EPAct expanded the definition of *Byproduct material* to include any discrete source of naturally occurring radioactive material, other than source material, that the NRC, in consultation with the Administrator of the EPA, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security. The legislation, and the proposed rule, do not contain criteria for making such a comparison or determination. The NRC, in its meeting with other Federal agencies, considered the IAEA list of sources in its Code of Conduct that are considered to pose a high risk to human health and safety if not managed safety and securely as a point of initiation for comparison. The NRC did not intend the Code of Conduct listing to be the sole criterion to measure comparative risk to public health and safety. Currently, the NRC, in consultation with other Federal agencies, has not found any other naturally occurring radioactive material that is extracted or converted after extraction that is used for a commercial, medical, or research activity that poses a threat to public health and safety, or to common defense and security, similar to radium-226. Discrete sources of radium-226 much lower in activity than discussed in the IAEA Code of Conduct are addressed in the regulations that will protect public health and safety. For instance, there are no exempt concentration or quantity levels for radium-226 in 10 CFR Part 30. There are Annual Limits on Intake and Derived Air Concentration limits in Appendix B to 10 CFR Part 20 for radium-226. The EPAct has provided a mechanism for the Commission to include additional discrete sources of naturally occurring radioactive material in the future following consultation with other Federal agencies, if the need arises to consider other naturally occurring radioactive material for byproduct material. The NRC, along with other Federal agencies, will use all of these criteria to determine if there are any other naturally occurring radioactive material posing a threat to public health and safety similar to radium-226. In addition, the NRC did not intend to imply that it was limiting its regulatory authority over radium-226 at quantities which could be fatal or cause permanent damage, or basing its regulations for radioactive material solely on acute effects.

Comments Related to Radium-226

Comment: A commenter, noting that radium-226 is a naturally occurring material present in most city water supplies, asked how the NRC proposes to differentiate regulated doses from background doses, and normal levels of radium-226 in building materials from regulated radium-226 contamination. The commenter also noted that because of radium's high excretion rate, bioassays may need to include weekly to monthly fecal analyses to suppress the missed dose to a value less than a few Roentgen Equivalent Man (Rem) per year. The commenter asserted that it is highly unlikely that licensees will be able to determine if a nonoccupational individual received less than 1 mSv (100 mrem).

NRC Response: The NRC's regulations in 10 CFR 20.1502 specify the criteria that licensees must address to show compliance with monitoring requirements for occupational dose limits. The regulation requires licensees in monitoring occupational exposure to take into account radiation from both licensed and unlicensed radiation sources under the control of the licensee. Occupational exposure does not include doses from background radiation. It is true that radium is ubiquitous in nature. However, there are methods that can be used to determine and subtract background radiation from dose measurements of occupational dose, such as determining ambient exposure by surveys or monitoring in the absence of byproduct material, and using this information to subtract background component from readings that include a total of both background and occupational exposure.

External exposure from radium-226 sources comes from its daughter product and gamma radiation, and occupational exposure is usually determined by a radiation dosimeter (badge). For internal exposure, a licensee can measure the concentration of radioactive material in the air in the work area, the quantity of radionuclide in the body, the quantity of radionuclide excreted by the body, or a

combination of all these measurements. Excretion measurement is not the only method to determine dose from internal exposure.

Comment: A commenter asked if, for source activity reporting and internal/external dosimetry, owners would be required to report any information about the radionuclide products that come from radium (daughter products). The commenter asked whether the most current International Commission on Radiological Protection (ICRP)/National Council on Radiation Protection and Measurements (NCRP) internal/external dosimetry standards will be used by the NRC, and if the newer consensus standards regarding actinide uptakes would be acceptable. The commenter also asked whether the American National Standards Institute (ANSI)/Health Physics Society (HPS) N43.4–2000 Classification of Radioactive Self-Luminous Light Sources Standard is a reference document that will be used by the NRC.

NRC Response: If the daughter products came from byproduct material (i.e., the radium-226 parent was byproduct material), the internal and external exposure would be required to be considered. Daughters from radium-226, which are not byproduct material, would not fall under the NRC's jurisdiction. However, 10 CFR 20.1502 specifies that, for occupational exposure, licensees must take into account radiation from both licensed and unlicensed radiation sources under the control of the licensee.

The current methodology used in 10 CFR Part 20 is from Federal Guidance Report Number 11, "Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion," for internal dose coefficients, and ICRP 26, "Recommendations of the International Commission on Radiological Protection, January 1977," for external exposure. Radium-226 values in Appendix B to 10 CFR Part 20 came from the Federal Guidance Report Number 11. The methodologies are not being changed at this time.

The ANSI/HPS N43.4–2000 Standard, Classification of Radioactive Self-Luminous Light Sources, was not specifically referenced in the regulations or in the Statements of Consideration to the proposed rule. The N43.4–2000 Standard classifies certain radioactive self-luminous light sources but does not establish design or safety standards. It is more for the use of the supplier or user to establish design features by providing minimum prototype testing requirements for these types of sources, and promoting uniformity in the production of these types of light sources.

Comment: A commenter stated that under the proposed rulemaking (10 CFR 30.32(g)), any specific license applications authorizing prostate brachytherapy must identify source manufacturers and model numbers of Palladium-103 brachytherapy sources. The commenter suggested that this requirement could be avoided by amending 10 CFR 30.32(g) to remove the requirement for identifying manufacturers and model numbers for sources authorized for any medical uses (specifically those per 10 CFR 35.400).

The commenter also believes that the proposed rule was unclear about how some legacy radium-226 sources that were not eligible for a general license could be specifically licensed per the 10 CFR 30.32(g) requirements.

NRC Response: Revision of 10 CFR 30.32(g) to remove the requirement for identifying manufacturers and model numbers for sources authorized for any medical uses (specifically those per 10 CFR 35.400) is outside the scope of this rulemaking effort. However, the NRC is revising 10 CFR 30.32(g) to address the issue of sealed sources to address the information required from licensees that have legacy sources containing the newly defined byproduct materials that are not in the SS&D registry.

Comment: A commenter asserted that the radium-226 issues are likely to be much larger and broader than believed. The commenter also noted that there are few consultants available with radium experience and asked whether the NRC has considered that it may have to act as a resource to answer questions and resolve problems.

NRC Response: The NRC recognizes that there may be broad issues regarding radium and that, although radium-226 was widely used in the past, there does not appear to be a significant volume of information concerning its health and safety implications and past uses. The NRC plans to develop a link on its public website under Nuclear Materials for "Frequently Asked Questions" to try to help answer some of the questions about radium as they arise.

Regulating Items Containing Radium-226

Comment: In response to Question 1 in NRC's request for additional information on issues in the proposed rule, technical information to support an exemption for old radium-226 sources, several commenters discussed the availability of data on the possession and disposal of radium items. The commenters stated that they do not believe that a consolidated source of information on the items, their location, or owners exists that could provide enough safety information for the NRC to make an informed decision on the regulation of these items.

One commenter recommended that the NRC conduct a systematic study to assess the potential individual and collective (population) radiation doses associated with the use, possession, transfer, and disposal of regulated radium items, especially antiquities, and suggested that the study could be similar to NUREG–1717, "Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials." The commenter further recommended that the NRC review NUREG/CP–0001, "Radioactivity in Consumer Products," dated August 1978, for more information on radium in watches, smoke detectors, lightning rods, and other consumer products.

NRC Response: The NRC agrees that there does not appear to be a consolidated source of information concerning radium items, their location, or who may be in possession of these items. The NRC staff contacted several organizations, such as the National Association of Watch & Clock Collectors, to alert them of the publication of the proposed rule because they might have an interest in this rulemaking. In addition, these organizations might be able to provide further information to assist the NRC in making regulatory decisions regarding radium items. The NRC staff has also secured the services of a contractor to help it better characterize the likely activities and potential doses to users, initially, from the proposed exemption for radium timepieces, and, at a later date, other radium antiquities that will be subject to general licensing. The NRC staff has used NUREG/CP–0001 as part of its evaluation and has referred the NUREG to its contractor for use in its review. Evaluations of previously manufactured items would be somewhat different than those in NUREG–1717 as no new distribution is being allowed for many of these items.

Comment: In response to the NRC's Issue for Public Comment Q.1, a commenter noted that pre-WWII naval warships used radium luminescent buttons as deck edge markers. The commenter was concerned that these marker buttons may not meet the NRC's descriptions of the various radium sources. The commenter suggested that the NRC expand the coverage of radium-226 items beyond light sources in aircraft and medical uses. The commenter also asked if the NRC will bring enforcement actions against

persons who discover previously unknown radium-226 items, and who would be financially responsible for those items.

NRC Response: The NRC has become aware that radium luminous items were also commonly used on military vehicles and naval ships in addition to aircraft. The NRC believes that vehicles with radium luminous items may be found in military museums and owned by private collectors. With regard to ships, it is the NRC's understanding that the Navy made a concerted effort years ago to remove and dispose of radium luminous items. However, there may be some of these items remaining on "mothballed" ships. The NRC agrees that the general license in 10 CFR 31.12 should be expanded to include additional military vehicles. As restructured, the 10 CFR 31.12 general license would automatically apply to all possessors of antiquities originally intended for use by the general public, nonintact timepieces, and timepiece hands and dials no longer installed in timepieces; luminous items installed in air, marine, or land vessels or ships (This would include airplanes, helicopters, jeeps, trucks, tanks, ships, landing vessels, artillery pieces, and any other former military use vehicle no longer under the control of the military.) See discussion under New General License for Certain Items and Self-Luminous Products Containing Radium-226, above; all other luminous products, provided that no more than 100 items are used or stored at the same location at any one time; and small radium sources containing no more than 0.037 MBq (1 μCi) of radium-226. While the general license does not authorize the manufacture, assembly, disassembly, or repair of most of the listed items, the disassembly and repair of timepieces would be allowed. The general license is automatically granted by NRC regulations to persons meeting the general license criteria. No action is required from these persons to obtain a general license. The NRC foresees no issue regarding possession of these items provided that the restrictions on the general license are complied with. The NRC would hold persons who possess the items financially responsible for the items with regard to such things as disposal or meeting other requirements of the general license.

The general license established in 10 CFR 31.12 is revised from the proposed rule as follows: Paragraph (a)(2) is revised to read, "Nonintact timepieces and timepiece hands and dials no longer installed in timepieces"; paragraph (a)(3) is revised to read, "Luminous items installed in air, marine, or land vehicles"; paragraph (a)(4) is revised to read, "All other luminous items, provided that no more than 100 are used or stored at the same location at any one time"; and paragraph (d) is revised to read, "The general license in paragraph (a) of this section does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired".

Comment: A commenter asked whether the NRC's reporting requirements apply to owners of past accelerators or radium-226 items if they do not presently have control over the item. For example, the commenter noted that wrecked ships and airplanes could contain radium dials, and luminous dial instruments could be disposed of in a sanitary landfill, and the original owners of these items would not necessarily have any knowledge of their current location.

NRC Response: The NRC's regulations apply to persons who currently, or will in the future, possess byproduct material. The NRC would not hold persons responsible for reporting any previous possession, transfers, or disposals of materials that may have been disposed into locations such as municipal landfills over which they have no control. However, while the NRC will not hold anyone accountable for past disposals in a landfill, these persons might be accountable under EPA's Superfund regulations.

Comment: In response to the NRC's Issue for Public Comment Q.1, a commenter stated that the trade of radium-dial watches has increased in the past 10 years with most of these sold through Internet auction sites or on personal web sites. The commenter does not believe that the majority of the people buying these watches are aware that the watches are radioactive or the degree of their radioactivity and is concerned about the effect of these watches on people who are inadvertently exposed to the watches by their incidental close proximity to someone wearing or carrying one. The commenter also noted that most owners of these watches are not aware that the radiation is still active because the luminous scintillating material in the paint mixture is no longer working. In the commenter's opinion, the sale and use of vintage radium dial watches is not in keeping with the goal of "as low as is reasonably achievable" (ALARA).

The commenter stated that many people open these watches to try to repair them, to clean their dials, and to replace hands, that many of these watches are bought and sold in poor condition (e.g., open, not sealed), and that often a watch is sold with the crystal (glass) missing and the radium paint on the dial exposed to the outside air. The commenter noted that radium powder/dust can and does flake off of exposed dials and broken watch cases.

The commenter indicated that the NRC should require possessors of these kinds of watches to follow the same shipping requirements as businesses, because the watches exhibit the same types of hazards. The commenter recommended that the NRC consider these concerns in connection with defining byproduct material. The commenter does not think activity thresholds will be useful or practical, but that any rulemaking would have to consider "radium dial watch" as an entity.

NRC Response: To further support the exemption and the related general license with regard to timepieces, the NRC conducted a scoping study to determine the typical and maximum radium activities used in various types of timepieces and the potential exposures that might result to users, collectors, and repair technicians. The results of this study indicate that the doses expected to an individual user, collector, or repair technician are acceptably low.

As directed by the EPAct, the NRC's development of the proposed rule considered the CRCPD's applicable SSRs. As provided in the SSRs, the NRC has included an exemption from licensing for persons who possess intact timepieces that contain no more than 0.037 megabecquerel (1.0 microcurie) of radium. The NRC regulation is more restrictive than the SSRs in that the exemption only applies to intact timepieces. In the proposed rule, the exemption would also have allowed antique collectors and watch repair facilities to repair up to 10 timepieces in any year. In the final rule, however, the allowance for repair is eliminated from the exemption and is now authorized under the general license provision. As noted, the exemption only applies to intact timepieces. Possession of nonintact timepieces, or radium luminous parts such as hands, dials, or faces, and timepiece disassembly and repair would be subject to the general license provided in 10 CFR 31.12.

Shipment of radium timepieces are currently and will continue to be subject to regulations established by the DOT and the United States Postal Service. Such shipments will now also come under the NRC's regulations in 10 CFR Part 71.

The NRC has specifically included radium in the definition of *Byproduct material*. The NRC appreciates that most

consumers will probably not know how much activity there may be in a particular timepiece. However, the NRC's evaluation indicates that most timepieces that were produced in the past contained less than the 1-microcurie (37 kBq) exempt limit. If a particular intact timepiece contains more than 1 microcurie (37 kBq), then possession would fall under the general license provided in 10 CFR 31.12.

Comment: In response to the NRC's Issue for Public Comment Q.1, a commenter stated that it has never found or been informed of a leak from any of the double-encapsulated and welded radium-226/beryllium sources in their gauges. The commenter noted that even in some worst-case accidents that occurred, such as compactors running over gauges, no source has leaked radioactive material, and no accident has caused the source to be separated from its shield.

NRC Response: The NRC notes that the commenter appears to be describing sources used in portable moisture-density measuring devices used in roadbed and other construction activities. Generally, these devices are possessed under a specific license, although there is a possibility some devices may have been authorized by a State under a specific license similar to 10 CFR 32.51 for distribution to general licensees under requirements comparable to 10 CFR 31.5. As noted in response to another comment, if a device is generally licensed, a label on the product should indicate its generally licensed status. In either case, the licensing authorization would remain the same. Periodic source leak testing is generally required for such devices.

Exemption of Certain Radium-226 Items

Comment: One commenter recommended that the proposed limit for repairing timepieces containing radium-226 be increased from 10 to 18 units per year. This commenter also suggested that the limitation should not be restricted by company, but by the number of qualified timepiece repair technicians employed. The commenter suggested that this change is needed to provide necessary consideration for industry consolidation, the emergence of specialized repair centers, and the expansion of geographic markets brought about by the Internet and globalization.

NRC Response: The NRC conducted a scoping study regarding potential risk associated with handling timepieces containing radium. Based on the results of the scoping study on the potential health and safety impacts of repairing timepieces containing radium-226 (including the storage of loose parts likely to be associated with repair facilities and not covered by the exemption), the Commission has decided not to limit the number of repairs. However, the repair will be subject to the general license in 10 CFR 31.12. There may be limited circumstances where companies with a number of timepiece repair technicians specifically involved with handing radium-226 should be specifically licensed or may be required to conduct cleanup activities. See additional comment and response discussion on General License of Certain Radium-226 Items and on Specific Licenses for Radium-226.

Comment: A commenter disagreed with the NRC's proposal under 10 CFR 30.20 to exempt smoke detectors containing up to 74 kBq (2 μCi) of radium-226 from the licensing requirements in 10 CFR Parts 20, 30 through 36, and 39. The commenter stated that radiation detection equipment at landfills and scrap facilities are very sensitive and are often set to thresholds less than twice the background radiation. The commenter noted that low activity sources, such as smoke detectors containing up to 74 kBq (2 μCi) of radium-226, will trigger these detectors and cause the arriving load to be rejected. The commenter stated that this would increase the number of incidents that the States would be required to respond to, which would result in an increased expenditure of time, human resources, and funds. The commenter recommended that these sources should not be allowed to be disposed of in the general waste stream, and that facilities with devices containing these levels of activity should be generally licensed and should be required to dispose of the sources properly.

NRC Response: The exemption for smoke detectors is only being expanded to cover detectors previously distributed in accordance with a specific license issued by a State under comparable provisions to 10 CFR 32.26 authorizing distribution to persons exempt from licensing. Smoke detectors meeting this criteria are already exempted by most States. Documentation of the individual safety evaluations made to demonstrate that these detectors meet the applicable safety criteria is incomplete. However, the Bureau of Radiological Health (BRH) of the FDA, in consultation with the States and other Federal agencies including the NRC and its predecessor, the Atomic Energy Commission (AEC), developed NARM guides in the 1970's, to assist the States to develop more uniform regulations for NARM. These guides included one for gas and aerosol detectors, which was essentially equivalent to the NRC's regulations in 10 CFR 32.26, 32.27 and 32.28. By the late 1970's, the SSRs included comparable provisions. The guide and the SSRs also included a quantity limit of 3.7 kBq (0.1 μCi) for radium-226.

Some information on potential impacts of disposal of these detectors is contained in the Nuclear Energy Agency document, "Recommendations for ionization chamber smoke detectors in implementation of radiation protection standards, 1977," and NUREG/CR–1156, "Environmental Assessment of Ionization Chamber Smoke Detectors Containing Am-241," November 1979. According to these documents, americium-241 had almost completely replaced radium-226 in smoke detectors being sold by the late seventies, and the quantities of radium-226 used had generally been reduced to no more than 3 kBq (1 μCi), typically 1.8 kBq (0.05 μCi). It is not expected that there are large numbers of smoke detectors with radium-226 still in existence, with the smaller quantities being more common among those that are. Thus, it is not expected that large numbers of detectors containing radium-226 would be disposed of concurrently. The disposal of small numbers of such detectors in a landfill or municipal incinerator is not expected to result in a significant impact to public health and safety or the environment.

The commenter was particularly concerned with the cost related to detectors containing radium being detected at landfills and scrap facilities. Exempting from the NRC's regulations those detectors which have been previously exempted from regulation by the States will not add to the number of these incidents nor will not exempting them be able to prevent all such incidents. However, a significant part of the cost is incurred after identification of a source, if it requires a more expensive disposal route. In many cases, once a radioactive source has triggered a monitor, it can still be disposed of at the landfill if this is determined to be an acceptable disposal option. Because the EPAct allows for the disposal of the newly added byproduct material in disposal facilities permitted under Federal or State solid or hazardous waste laws, acceptability at landfills for disposal of an exempted product or material should be improved. What happens after identification will depend, in part, on the label, which would have been required by the State at the time of distribution. If intact and legible, it would indicate whether the product had been exempted from State

regulations or generally licensed. However, the NRC recognizes, as one commenter pointed out, that some landfill operators may not be obligated to accept such material at their facilities.

The Commission continues to consider the exemption of these previously distributed detectors to be justified. The final rule includes this exemption in revised 10 CFR 30.20.

Comment: Two of the State commenters stated that the NRC should add 3.7 kilobecquerel (kBq) [0.1 microcurie (μCi)] of radium-226 to 10 CFR 30.19 for self-luminous products or otherwise include exemption language from the SSRs for low activity radium-226 sources rather than including those sources under a general license. One of these commenters specifically mentioned types of products other than self-luminous products listed in the proposed general license in 10 CFR 31.12 and indicated that they should also be exempt if containing the same low quantity of radium-226. Both of these commenters asserted that there are no problems known to exist with these exempt sources so there is no sufficient reason for the NRC to not exempt them as the States have done for many decades, and stated that if the NRC is aware of some risk to public health and safety from these very low activity sources, then it should provide the information.

NRC Response: There is only limited information on these items. However, there is some indication that the applied radium may be subject to such concerns as flaking off due to aging. The NARM guides developed by BRH/FDA in the 1970's included a guide for radioluminous products which contained safety criteria for approval of a product for use under a general license; but not for use under an exemption. The SSRs do not include provisions similar to those in 10 CFR 32.22, 32.23, and 32.24, for the manufacture or initial distribution of self-luminous products for use under an exemption. The SSR provision similar to 10 CFR 30.19 covers only previously acquired products in the case of items containing radium-226. It appears that these products were generally not evaluated under provisions comparable to those in 10 CFR 32.22, 32.23, and 32.24 for self-luminous products. This SSR provision exempts "articles" containing radium under the heading "Self-luminous products." While the quantity limit is less than that for watches, the category of product is very open-ended and could include items where the radium is not contained.

For these reasons, the Commission considers it prudent not to exempt this category of products that is covered by an exemption in the SSRs, or other unspecified products with no more than 3.7 kBq (0.1 μCi) of radium-226. In addition, there are many self-luminous products containing more than 3.7 kBq (0.1 μCi) of radium-226 and most would not be labeled with the quantity or activity of the radium-226. It would be difficult to determine which products would fall under the exemption and which would fall under the general license in 10 CFR 31.12.

Comment: One commenter noted the proposed graded approach for different levels of radium-226 sources and also mentioned the discussion in the Statements of Consideration of various approaches used by the non-Agreement States. This commenter responded to the NRC's request for input on whether a general license approach or exemption approach would be better for some of the devices containing radium-226, by saying that an exemption would gather no data, and therefore not be the desired path except for the smallest amounts (e.g., 1 μCi). This commenter also stated that an exemption concentration level of 1 μCi (and an appropriate corresponding exempt quantity limit) could be considered with the specific/general license approach for materials above that de minis amount.

NRC Response: The SSRs do not include an exempt quantity or exempt concentration for radium-226. With the exception of an exempt quantity of polonium-210, these exemptions do not include alpha emitters. Given that there are no materials in use that have been previously universally exempt from licensing under State regulations, there is no justification for adding such exemptions now. Without a demonstrated need, the NRC does not consider it prudent to allow introduction of radium-226 into materials and products to be used by persons exempt from licensing or to allow the distribution of radium-226 as exempt quantities.

The requirements for registration of generally licensed devices only apply to those generally licensed under 10 CFR 31.5 and then only if the device contains a radium source of 3.7 MBq (0.1 mCi) or greater. The new general license in 10 CFR 31.12 will not require registration by possessors of the items identified in the regulation nor does the NRC believe there is a need to impose such a regulatory burden on the general licensee.

Comment: A commenter recommended that the NRC include an exemption in the final rule for Internal Revenue Service (IRS)-designated 501(c)(3) organizations that existed before the effective date of the final rule that operate, in whole or in part, as an accredited school of watch and/or clock repair and/or specialty museum with a primary focus on housing and exhibiting timepieces and related objects. The commenter noted that it is important for students to have access to examples of radium parts and watches as part of their training, and museums must be able to preserve and present practices and objects through exhibits to fulfill their educational mission. The commenter stated that without this exemption, the proposed inventory process and licensing fees would create an undue burden on these organizations.

NRC Response: The status of an organization as a nonprofit institution and whether its mission is educational are not appropriate bases for exemption from licensing requirements. Exemptions from licensing are based primarily on findings with respect to health, safety, and environmental impacts. It should be noted, however, that organizations categorized as small entities in accordance with 10 CFR 2.810 are eligible for reduced annual licensing fees in accordance with 10 CFR 171.16. Also, a licensee, such as a nonprofit educational institution, may be exempt from application fees under 10 CFR 170.11 and annual licensing fees under 10 CFR 171.11, depending on the licensed activities. Also, a museum or school may possess watches under the exemption in 10 CFR 30.15(a)(1) irrespective of whether other products or activities require these entities to be a general or specific licensee.

General License of Certain Radium-226 Items

Comment: Several commenters responded to the NRC's Issue for Public Comment Q.6 request for information on health and safety impact from activities involving radium-226 sources that would support a regulatory framework other than general licensing, such as an exemption. In general, the commenters agreed that an exemption would be preferable to a general license for items containing radium-226; however, most of the commenters also agreed that more information on the risks of these items is needed before a final decision is made.

Several of the commenters, citing a number of reasons, recommended that the NRC create a time-limited exemption for antiquities containing radium-226 until such time as sufficient data are gathered and analyzed to determine whether these items exhibit high enough risk to require a license rather than a permanent exemption.

Two commenters noted that their States have had to respond to scrap metal yards, steel mills, and municipal waste sites where radium-226 items had caused loads to be rejected and noted that this happens because possessors of these items do not usually know how to safely dispose of them.

Other commenters suggested that an exemption for items containing radium-226 is better as long as enough safety data exist proving a low risk level for these items to justify the exemption and recommended that more investigation, which might include working groups and a public outreach effort, is needed into the safety risks of these items. One commenter noted that such an outreach effort would place a burden on State financial and human resources, and recommended that the NRC conduct a cost-benefit analysis to analyze these impacts on the States.

While the commenters were in general agreement with the NRC's proposed approach regarding the specific constraints in the proposed exemption in 10 CFR 30.15(a)(1)(viii), one commenter asked how the NRC proposes to regulate radiological antiquities that are bought and sold on the Internet.

NRC Response: The NRC notes that, for the most part, there appears to be no existing regulatory approach for many of the radium items identified in the 10 CFR 31.12 general license, and that very little information exists. Therefore, the NRC believes it is more appropriate to regulate the products under a general license until the NRC has had the opportunity to further document and evaluate these items and practices, and determine whether or not additional exemptions may be appropriate. The NRC also recognizes that many individuals may not be aware that they possess radium items and that "incidents" where these items are identified at waste sites may continue into the future.

Based on its initial evaluations, the NRC has been able to find only limited information regarding existing safety data which show a low risk level for these items which is necessary to justify an exemption. The NRC currently has plans to conduct further evaluations, including gathering information concerning the products, to help it better characterize the likely activities and potential doses to users from radium antiquities that will be subject to general licensing. The NRC will consider the commenter's suggestion regarding a public outreach program and the program's impact on State and Federal resources.

The general license in 10 CFR 31.12 allows general licensees to transfer possession of antiquities and other products between general licensees, and this includes antiquities bought and sold over the Internet. The NRC believes this is acceptable while the NRC conducts evaluations and because the limited information available does indicate a low risk associated with these items.

Comment: Several commenters discussed the appropriate regulation of the repair and disassembly of items containing radium-226. One commenter stated that it believes a "prohibition of these activities under general licensure" is appropriate. The commenter recommended that disassembly, repair, and assembly work on an antique item should be authorized by a specific license, not a general license. Another commenter recommended that facilities disassembling or repairing timepieces containing radium be generally licensed until a study is conducted and completed to assess the potential individual and collective (population) radiation doses associated with this industry.

NRC Response: The NRC agrees that the repair and dissassembly of certain items containing radium-226 should only be conducted under a specific license and notes that 10 CFR 31.12(d) prohibits these activities under the general license. The NRC conducted a scoping study on potential exposures regarding activities involving timepieces containing radium-226. Based on the results of the scoping study, the NRC will allow timepiece disassembly and repair under the general license provision.

Comment: Several commenters were in support of a general license for items containing radium. One commenter requested clarification of the general license requirements for radium dials, gauges, and buttons installed in aircraft used as static displays, in aircraft used in museums, in aircraft that are in storage for potential re-use as refurbished piloted aircraft, as unmanned drone aircraft (potentially used as targets), or as a source for spare parts, and in dials, gauges, buttons, and/or painted lettering or numbering that do not have a glass or crystal face covering, or for which the covering is damaged or broken. The commenter also expressed concern that the transfer requirements of proposed 10 CFR 31.12(c)(2) may place an undue burden on the licensees and recommended that the NRC should allow for easier transfer under the general license from one entity to another.

One commenter stated that some museums possess devices containing radium-226 in gauges and other safety devices installed in ground vehicles (e.g., trucks, armored tanks, artillery pieces), portable radios, and submarine instrument panels on display and that public access to these devices is controlled in the same manner as aircraft at these museums. The commenter recommended that the NRC expand the 10 CFR 30.12 general license to include radium containing devices installed on other types of vehicles and equipment besides just aircraft.

Another commenter stated that a common practice on World War II aircraft was to apply radium paint over the words and numbers engraved on cockpit instrument panels so that they were visible in the dark. The commenter noted that in these cases, the painted surfaces are not contained behind glass as in gauges.

NRC Response: The rule allowing possession under the general license rule applies to all luminous items installed in aircraft regardless of whether the material is in an intact gauge, a gauge missing a face plate, or as luminous paint applied on the outside of a gauge. The general license also applies to all aircraft regardless if the aircraft is routinely used or in storage.

Paragraph (a) of 10 CFR 31.12 allows any general licensee to transfer any generally licensed item identified in this section to another general licensee for possession and use without restriction. The provisions in 10 CFR 31.12(c)(2) only restrict transfers to specific licensees or as otherwise authorized by the NRC under 10 CFR 20.2008 when the general licensee is intending to dispose of the item.

The NRC agrees that the general license should be extended to include luminous items installed in additional large military transport vehicles no longer under the control of the military and has modified 10 CFR 31.12 to include marine ships and land vehicles in addition to aircraft. The general license also allows for the possession of up to 100 other luminous items, including uninstalled aircraft safety devices.

Specific License for Radium-226

Comment: A commenter stated that there should be a threshold level for possession of radium-226 luminous items that are not contained in an intact product beyond which a specific license is preferable, whether or not the items are intact. The commenter recommended that the NRC consider requiring a specific license for a number

of items that is at least the exempt quantity value times 10 to 100. The commenter also stated that commercial transfers of items containing radium-226 should not be treated the same as possession and use and recommended that the NRC require a specific license for commercial transfers.

NRC Response: The NRC does not agree, based on other comments and the information currently available, that it should impose more restrictive requirements beyond those provided in 10 CFR 31.12. However, the NRC may consider the commenter's suggestions in a future rulemaking should the results from further evaluations, and characterization of the likely activities and potential doses to users from radium antiquities, indicate a need for additional restrictions in these areas.

Comment: With regard to proposed 10 CFR 31.8(b), which relates to the general license for radium-226 in calibration or reference sources, one commenter recommended that the NRC provide a "grandfather clause for [radium-226] items" that were approved for manufacture before 10 CFR 32.57 was adopted in its current form. The commenter stated that the States should be able to simply attest that the calibration or reference sources were manufactured to standards or criteria that have been demonstrated through years of use to be adequate to protect the public health and safety and the users of the sources. The commenter asserted that, unless the NRC has knowledge of problems of leaking sources of this type, the NRC should provide clarification that these sources are acceptable as manufactured.

NRC Response: "The general license in 10 CFR 31.8 contains a footnote to include any sources labeled in accordance with the provisions applicable before January 19, 1975, i.e., with labels referring to the AEC before the creation of the NRC. In addition to the revision of paragraph (b) of 10 CFR 31.8, this footnote is being revised to include a requirement that sources containing radium-226 be labeled as required by the authorizing State at the time of manufacture. Therefore, the NRC believes that there is no need for any further grandfathering. Any calibration and reference source (or its container) containing radium-226, that was manufactured or initially transferred under requirements comparable to 10 CFR 32.57, would be labeled accordingly. As suggested by the commenter, the NRC expects that these sources are acceptable as manufactured.

Comment: A commenter noted that the proposed 10 CFR 32.59 required testing for leakage "with a filter paper" and "application of moderate finger pressure." The commenter believes this is overly prescriptive, prohibiting the use of other materials and requiring the use of "the fingers."

NRC Response: The requirements referred to by the commenter are the existing requirements for distributors of calibration and reference sources containing americium-241 for use under the general license in 10 CFR 31.8 and equivalent general licenses of the Agreement States, to which radium-226 is being added. It is consistent with the SSRs. The commenter's request for this general revision is outside of the scope of this rulemaking.

Comments Related to Accelerator and Accelerator-Produced Radioactive Material

Comment: One commenter believes that the definition of Cyclotron was unclear, noting the statement that particles are "bent".

NRC Response: To address the commenter's concern, the NRC is revising the definition of Cyclotron to indicate that the charged particles travel in an outward spiral or circular path.

Comment: A commenter stated that the definition of Particle accelerator should be revised. The commenter noted that the definition currently states that a particle accelerator is a machine capable of "discharging the resultant particles or other radiation into a medium at energies in excess of 1 megaelectron volt (MeV)." The commenter noted that cathode ray tube television sets were developed from early particle accelerators, and that while commercial television sets operate at 0.035 MeV, overzealous application of the rule might include these and other smaller particle accelerators. The commenter also stated that it is possible that any beta-emitting source with energies greater than 1 MeV in a vacuum might also be considered an accelerator. The commenter noted that the "NRC is now regulating exotic particles such as muons, but that [the commenter's] search of 10 CFR part 20 did not find any reference to muons." The commenter noted that the NRC should also "expect to see extremity doses approaching 50 REM per year for the preparers of the accelerator-produced medical isotope unit doses" and apparently that the NRC should consider those health effects in its regulation of NARM.

NRC Response: The definition of Particle accelerator has been used by State radiation control programs for many years. The lower limit of 1 MeV was chosen to avoid regulation of lower energy accelerators. Consistent with the intent of the EPAct, the NRC will regulate byproduct material as defined in the EPAct as radioactive material produced by use of a particle accelerator. The NRC will not regulate the possession or operation of any particle accelerators that will not produce the byproduct material that the NRC will regulate. Also, note that the NRC will not regulate particles such as protons or electrons, or exotic particles such as muons generated in these particle accelerators that will not produce byproduct material.

The NRC is aware that high radiation doses are possible from handling accelerator-produced radioactive materials. Because licensees are required to comply with the radiation safety program requirements in 10 CFR Part 20, the NRC expects that licensees will use handling methods and equipment as part of their radiation safety program to prevent high radiation doses. No change is made to the definition.

Comment: A commenter noted that for hadronic beams, measurements of energy per nucleon (MeV/nucleon) may provide more useful information (apparently rather than the maximum energy of the accelerated particles). The commenter gave as an example that a 1-MeV proton will have different activation potential than a uranium-238 nucleus with (collectively) 1 MeV.

NRC Response: The commenter's view on energy level is noted. Because the NRC only regulates the radioactive material produced by using a particle accelerator and not the radiation beam itself, the activation potential of the beam or particle has no direct impact in the NRC's determination of the regulated material. Radioactive material is defined as byproduct material if it is produced for use for commercial, medical, or research activities and is produced by irradiation or activation in a particle accelerator regardless of the type or energy level of the particle.

Comment: A commenter asked if the NRC's jurisdiction over accelerators includes particle beam weapons in space, the ion drive technologies being developed for interplanetary use, or laser wake field accelerators; or if the NRC's jurisdiction would extend to such items and materials as beam energy, interlock requirements, minimization of activated/spallated materials, ion species accelerated/charge state, or minimization of beryllium components (neutron spallation targets). The commenter also asked what parts of an accelerator (e.g., magnets, power supplies, RF cavities, beam pipe, nuts, bolts, wire, shielding, tools) the NRC will regulate. The commenter noted that

these parts are transferred between the DOE-owned/NRC-regulated accelerators and worldwide researchers.

NRC Response: The NRC's authority does not include regulating accelerators or parts of an accelerator, nor does it include particles or particle beams. The NRC does not regulate accelerator or accelerator operating parameters. However, certain Agreement and non-Agreement States may regulate accelerators, accelerator operations, and accelerator safety requirements within their State's radiation control programs. Under the EPAct, the NRC will regulate radioactive materials produced in an accelerator used to intentionally produce radioactive material for use for commercial, medical, or research activities. This will also include any activated radioactive material that may still reside within the accelerator as a result of using the accelerator to intentionally produce radioactive material. The determination of the regulated material is based on whether a radioactive material is produced in a particle accelerator for use for commercial, medical, or research activities. In addition to regulating the accelerator-produced radioactive material, the production facility will also be regulated through the NRC or Agreement State licensing process to ensure safe handling of the material and to ensure protection of public health and safety and the environment.

Comment: A commenter stated that most activation/spallation in accelerators occurs in high loss areas. The commenter noted that beam dumps can become very radioactive in higher energy machines. The commenter stated that caution should be exercised because the efficiency of Geiger-Mueller (GM) photon counters for photon-only emitting radionuclides that are common in accelerator environments is 0.17 percent as opposed to a GM photon-counting efficiency of 30 percent for medium energy beta emitters.

NRC Response: The NRC appreciates the commenter's insight. The NRC expects licensees to be knowledgeable, based on their qualification through training and experience, of the response characteristics of survey and measurement instrumentation relative to the radioactive material being produced or used. Licensee RSOs are required to show evidence of such training and experience as part of the licensing process.

Comment: Two commenters asked if entities other than particle accelerator users would be regulated by the NRC. One commenter asked if the NRC will license accelerator producers and distributors. Another commenter asked who the NRC anticipates will regulate the safety of accelerator facilities and their operation in both Agreement and non-Agreement States. The commenter noted that many States have implemented the SSR accelerator regulations. However, the commenter stated that "the regulatory responsibility for the radiation safety of the accelerator facility, the production of the radionuclides (licensing of accelerator targets), and the radioactive waste management (specifically, accelerator targets) is unclear in Non-Agreement States, particularly in Federal institutions."

NRC Response: The NRC has no jurisdiction over accelerators; therefore, the NRC will not license or regulate producers, distributors, or users of particle accelerators. The NRC will, however, regulate persons that handle radioactive material from an accelerator that is used to intentionally produce radioactive material for use for commercial, medical, or research activities. Although the NRC will not license or otherwise regulate the sales or distribution of particle accelerators, certain Agreement States and non-Agreement States may have regulatory programs for registration, licensing, and/or safe operation of accelerators.

As provided by the EPAct, the NRC or the Agreement States have the regulatory authority for regulating the accelerator-produced radioactive material, the production of accelerator-produced radioactive material, and the associated waste. Once the Agreement State certifies, and the NRC determines that the State's program is adequate to protect the public health and safety for the newly added byproduct material, the State will have regulatory authority over the newly added byproduct material. If an Agreement State did not certify or the NRC determined that the State's program is inadequate, the NRC will retain its regulatory authority over the newly added byproduct material. In a non-Agreement State, the NRC has the regulatory authority for all AEA materials including the newly added byproduct material. As for Federal facilities, the NRC has the regulatory authority regardless if the Federal facility is located in an Agreement State or in a non-Agreement State.

Comment: Two commenters agreed with the NRC's proposed delineation of particle accelerators into three varieties, especially with the one category specific to accelerators that are operated to produce only particle beams and not radioactive materials. The commenters agreed that these types of accelerators, which include linear accelerators used in radiation therapy, should not be regulated. One commenter supported the NRC's proposal to not include incidental radioactive material produced by medical linear accelerators in the regulation.

One commenter recommended that the NRC should, in the final rule, include a specific exemption for commercially available linear accelerators used only for medical purposes to treat patients. The commenter recommended modifying the definition of Particle accelerator for such exemption and provided specific language for the modification.

NRC Response: Under the EPAct, the NRC only has regulatory authority over accelerator-produced radioactive material and not over the accelerator. Because the NRC can only exempt material or activity under its jurisdiction, it would not be appropriate for the NRC to exempt accelerators in its regulation.

Comment: A commenter asked if the NRC would regulate neutron generators as accelerators. The commenter noted that these neutron generators operate by D,T [deuterium, tritium] reactions that use a 4-MeV (2 MeV per nucleon) deuteron to produce up to a 12-MeV evaporation neutron. The commenter stated that confusion will occur if the NRC regulates accelerators based on their acceleration potential. As an example, the commenter stated that a 4-MeV electron will accelerate a nucleon to 4 MeV if only one electron is removed from the electron shell (charge state), but if two electrons are stripped, then the acceleration energy will be 8 MeV (4 MeV × 2).

NRC Response: The NRC will not regulate accelerators nor the operation of an accelerator. The NRC will only regulate the radioactive material produced in an accelerator intentionally operated to produce radioactive material for use for commercial, medical, or research activities. Therefore, the acceleration potential is irrelevant to the NRC's regulatory program. A minimum accelerator potential of 1 MeV is specified in the definition of *Particle accelerator* to be consistent with the SSRs.

If a neutron generated by the accelerator is used to produce radioactive material via neutron activation, and the resulting radioactive material is used for a commercial, medical, or research activity, the radioactive material (and any incidentally produced radioactive material) would be regulated as byproduct material under Section 11e.(3) of the AEA as amended by the EPAct.

Comment: A commenter recommended that the NRC add the definition of *Particle accelerator* to 10 CFR Part 35 in addition to 10 CFR Parts 20 and 30.

NRC Response: The NRC Part 35 licensees are required to comply with 10 CFR Parts 20 and 30, in which the term *Particle accelerator* is defined. Therefore, it is not necessary to repeat this definition. In addition, including the definition of *Particle accelerator* in 10 CFR Part 35 may inaccurately reflect that Part 35 includes regulations for particle accelerators.

Accelerator-Produced Radioactive Material

Comment: A commenter stated that certain materials have low nuclear binding energy. As with neutron sources using a "(gamma, N) reaction," particle beams can produce substantial neutron fluxes if they strike a beryllium target. The commenter asked whether the NRC would consider the materials activated by these neutrons as byproduct material or accelerator-produced material.

NRC Response: Before the EPAct, the NRC regulated americium/beryllium neutron generators but not radium/beryllium neutron generators because americium-241 was included in the definition of *Byproduct material*, and radium-226 was not. Both generators will now be regulated by the NRC because they both contain byproduct material. The NRC also considers activation products produced by neutron emissions from byproduct material (e.g., californium-252) to be byproduct material. The NRC also regulates the tritium targets in well logging tools and other accelerators that produced neutron beams because tritium is a byproduct material. The EPAct gives the NRC regulatory authority over discrete sources of radium-226 and accelerator produced radioactive materials. Therefore, the NRC now regulates, as byproduct material, the activation products produced by a neutron beam accelerator, when the activation products are used for commercial, medical or research and development uses.

Comment: A commenter noted that DOE may begin production of radionuclides and radioactive material accelerators [Reference: See *http://www.eh.doe.gov/nepa/eis/eis0310/eis0310.html* Volume I, Chapter 2a (see page 7 of the first enclosure)]. The commenter asked if this would cause any problems.

NRC Response: As an initial matter, the EPAct did not give the NRC jurisdiction over the production of accelerators. Therefore, the production of radioactive material accelerators would not impact the NRC's regulatory authority. In addition, DOE activities are not subject to licensing unless they fall within the purview of certain activities specified in Section 202 of the Energy Reorganization Act. The production of radionuclides would not fall within the scope of these activities. Therefore, DOE would not need a license to produce radionuclides. With the exception of restrictions in 10 CFR Part 35 for medical use licensees and in 10 CFR Part 30 for general licensees, there are no restrictions on who may transfer the radioactive materials to the NRC licensees. If DOE were to begin to produce radioactive material, it could transfer radionuclides to the NRC licensees provided the NRC licensee was specifically authorized to receive the radioactive material. However, if DOE pursued production of radioactive drugs or sealed sources for direct distribution to medical use licensees, the NRC may have to change its regulations because the existing regulations only allow medical use licensees to obtain these products from a 10 CFR Part 32 licensee. Similar changes may be needed to distribute material to general licensees or to persons exempt from licensing.

Comment: A commenter asked if the NRC will allow the use of the most current ANSI/IRCP/NCRP neutron flux to dose conversion factors because the accelerator neutron spectrum may exceed the maximum energy of only 400 MeV listed in 10 CFR Part 20.

NRC Response: For those cases in which greater than 400-MeV neutrons are encountered during a licensed activity, the licensee can request prior approval to use a specific ANSI/ICRP/NCRP neutron flux to dose equivalent conversion.

Comment: Three commenters provided their views on the NRC's proposal not to regulate incidental radioactive material produced by accelerators that are operated only to produce particle beams.

Two commenters agreed with the NRC's suggested regulatory approach of not regulating incidental radioactive material produced by accelerators that are operated only to produce particle beams. One commenter indicated agreement with this approach because only small amounts of the incidental radioactive materials are produced in the particle beam-generating process, and those typically have a short half-life. The other commenter agreed because it believed that the incidental radioactive materials are indistinguishable from the particles produced intentionally in particle beams and would not be an undue burden on licensees. A third commenter disagreed with the NRC's proposed regulatory approach and recommended that all incidentally produced radioactive material be regulated by the NRC regardless of the use of the accelerator. The commenter questioned treating incidental material that was made radioactive from an accelerator used only to produce particle beams differently than incidental material made radioactive from an accelerator used to produce both radioactive material and particle beams. The commenter stated that the incidental accelerator-produced material is radioactive material regardless of the purpose for which the accelerator is being used, and that in certain situations during disposal of the accelerator, the activated internal components of all accelerators will enter the waste stream. Furthermore, the commenter noted that in its experience, some activation products in the accelerator components were still radioactive a month after removal.

NRC Response: The NRC agrees that there is essentially no radiological difference between incidental radioactive material made from an accelerator used only to produce particle beams and an accelerator used to produce both radioactive material and particle beams. However, the NRC's authority under the EPAct does not extend to incidentally produced radioactive material unless the incidentally produced radioactive material was made during the process of making radioactive materials for commercial, medical, or research uses.

Comment: One commenter agreed with the NRC's proposed approach to regulate intentionally and incidentally produced radioactive materials without regulating the actual possession or operation of the accelerator. However, the commenter requested clarification of the NRC regulatory oversight of the radioactive material produced by an accelerator and the decommissioning of accelerator facilities in a non-Agreement State if the NRC does not have the authority under the EPAct to regulate the possession and operation of the accelerators that produce these materials. The commenter noted that some States do not have licensing requirements for operating an accelerator or for the material an accelerator produces.

NRC Response: Although the NRC does not regulate the operation of the accelerator, it will regulate the production of byproduct material and the byproduct material once it is

produced. The NRC will also regulate the use of the radioactive materials produced by the accelerator including operational steps that expose individuals to radioactive materials being produced, or the radiation from these materials and maintenance processes that involve handling components of the accelerator that have become radioactive. The NRC will issue a specific license to any person, as defined in 10 CFR 30.4, "Definitions," that produces byproduct material with an accelerator, provided the person meets the requirements in 10 CFR 30.33, "General requirements for issuance of a specific license." This license will authorize the production of radioactive materials by the accelerator and the incidental radioactive materials produced during the production process.

Under the provisions of the waiver that the NRC issued on August 31, 2005, a person producing byproduct material with an accelerator may continue that activity until the waiver is terminated. Under the waiver, the person was not required to have a license. When the NRC terminates the waiver under which the person is producing byproduct material with an accelerator, the person is subject to all the NRC regulations pertaining to the production, possession, use, transfer, and disposal of the radionuclides produced by the accelerator, and must apply for a license or an amendment to continue these activities. The person is permitted to continue producing radionuclides with the accelerator until the NRC takes final licensing action provided the person applies for an NRC license (or an amendment to an NRC license) within the time specified in the regulations. Therefore, the NRC's authority applies to the owner and operator of the accelerator facility in a non-Agreement State, and a license does not have to be in place for the transition of authority from a non-Agreement State to the NRC.

The NRC will regulate all radioactive materials and the disposal of components and decommissioning of facilities made radioactive during the use of the accelerator if the accelerator is used to produce byproduct material for a commercial, medical, or research activity. If the accelerator is never used to produce byproduct material for such a purpose, then the NRC will not regulate the incidental radioactive material produced during the operation of the accelerator.

Regulating Accelerator-Produced Radioactive Material

Comment: One commenter noted that the NRC has set up a regulatory framework that would issue one license for production and distribution and another for possession and use. The commenter recommended that the NRC continue to allow flexibility for the States to either follow the NRC's licensing approach or to streamline the licensing process by combining both license authorizations into a single license. Some States use the single license approach so facilities are not being required to pay multiple fees for multiple licenses or so a single facility with a single operator has only one radiation safety program for the State to evaluate. The commenter concluded that the additional authorizations require only a few extra lines of text in a license document, so the licensee should not have to pay separate licensing fees.

Another commenter requested that the NRC clarify whether a single license might include authorizations under both 10 CFR Part 30 and 10 CFR 32.72 or whether separate licenses are required by the NRC.

NRC Response: Licensing procedures are considered as a matter of adequacy for the Agreement States, not compatibility. As long as the license or licenses written by an Agreement State are adequate to assure that the licensed program will protect public health and safety, the licensing procedures need not be the same as those used by the NRC. The NRC will continue to consider the adequacy of Agreement State licensing procedures for all byproduct licenses, including those for the newly added byproduct material, as part of the Integrated Materials Performance Evaluation Program (IMPEP) reviews.

The NRC fees are based on the number of the NRC-regulated activities conducted by the licensee. The NRC regulations list fee categories for the various activities. A license may include more than one fee category, and each fee category has a separate fee to recover the budgeted resources associated with that regulated activity.

The NRC intends to license the production of radionuclides by accelerators as a separate Part 30 license and has developed a separate licensing guide for this activity (i.e., NUREG–1556, Volume 21, "Program Specific Guidance About Possession Licenses for Production of Radioactive Materials Using an Accelerator"). Commercial distribution will continue to be licensed under 10 CFR 32.72 for radioactive drugs and under 10 CFR 32.74 for medical sealed sources. This licensing process provides a clear delineation between radionuclide production or radioactive drug manufacture and commercial distribution of radioactive drugs or medical sealed sources to medical use licensees.

Historically, a radioactive drug manufacturer has to obtain a Part 30 license for possession of the licensed material. A Part 30 license also authorizes the transfer of byproduct material under 10 CFR 30.41 to other licensees, but it does not authorize distribution of radioactive drugs to medical use licensees. Distribution of radioactive drugs containing byproduct material to medical use licensees for medical use must be authorized by a "Medical Distribution" (MD) license under 10 CFR 32.72 or 10 CFR 32.74.

The NRC issues MD licenses to commercial nuclear pharmacies for distribution of radioactive drugs to medical use licensees with a Part 30 authorization for possession and use. However, the NRC does not consider commercial nuclear pharmacies to be drug manufacturers, i.e., registered with FDA or a State as a drug manufacturer.

Comment: A commenter stated that medical radionuclides can initially produce very high doses of radiation from the exterior of a patient after treatment. The commenter asked whether, because of this, there are any patient releasability issues such as those for the release of iodine-131 therapy patients. The commenter also asked whether there would be any releasability issues for activated or spallated patients.

NRC Response: The requirements in 10 CFR 35.75, "Release of individuals containing unsealed byproduct material or implants containing byproduct material," apply to all medical uses and all medical use licensees. It is the licensee's responsibility for a release determination of a patient or human research subject to determine whether he or she: (1) cannot be released under 10 CFR 35.75; (2) can be released with written instructions; or (3) can be released without written instructions. These decisions are based on whether the total effective dose equivalent to any other individual is likely to exceed certain values. These values apply to the evaluation of all patients including activated patients.

Comment: Several commenters supported the "grandfathering" of individuals (i.e., not requiring individuals to meet new training and experience requirements in order to continue their previous responsibilities), discussed in the Statements of Consideration for individuals producing accelerator-produced radionuclides and in the proposed rule text for ANPs, medical use AUs, and RSOs. These commenters wanted a grandfathering provision for

AUs responsible for the production and use of PET radionuclides included in 10 CFR Part 30. Some of these commenters requested that the NRC strengthen the language to clarify the extent of the grandfathering authorizations. Several commenters requested that the NRC consider using this rulemaking to resolve other general issues related to grandfathering of AMPs and RSOs. The commenters agreed that individuals already authorized to use byproduct materials in 10 CFR Part 35 should also be authorized to use the newly covered accelerator-produced materials. One commenter wanted the NRC to clarify that the reverse was also true, i.e., individuals who previously only used NARM were now qualified to use all byproduct material.

NRC Response: Unlike 10 CFR Part 35 medical use licensees that are required to meet specific training and experience requirements, 10 CFR Part 30 licensees that use accelerators to produce byproduct material are required to meet general performance criteria in 10 CFR 30.33(a)(3). The training and experience of individuals involved in the licensing activities to produce the newly added byproduct material are reviewed during the licensing process to ensure that they are qualified to perform those activities. Because the NRC does not have specific requirements for these individuals, there is no need to provide a "grandfather provision" for them. Applicants with accelerators used to produce byproduct material will be required to describe the radiation safety training and work experience of those individuals using materials that they are seeking authorization to use. It is expected that these individuals that used the newly added byproduct materials will be able to document that their radiation safety training and work experience from using these materials are sufficient to meet the general performance criteria and that they be recognized as authorized individuals.

Section 35.57 was amended in the proposed rule to provide that certain authorized individuals who used only the newly defined byproduct material may be grandfathered (i.e., need not comply with the relevant training requirements in Part 35) for performing the same uses. The NRC does not believe that the language in the provisions should be revised.

The NRC has determined that revising the regulations to address general issues related to the grandfathering of AMPs and RSOs would be outside of the scope of this rulemaking. These issues will be addressed separately in response to a petition for rulemaking (PRM–35–20) filed by the American Association of Physicists in Medicine on September 10, 2006.

Comment: There were several comments on the NRC's proposal for the noncommercial transfer of PET radionuclides, drugs, and biologics to other medical facilities in its consortium by a medical use facility that uses its own cyclotron to produce PET radionuclides. One commenter stated that it agreed that facilities authorized by a State to produce PET radionuclides for noncommercial distribution should be allowed to do so without a medical distribution license.

Generally, the commenters agreed that distribution licenses should not be required for distribution of radionuclides from PET facilities to medical facilities under contract to them, but thought it was unclear which facilities would be included in the definition of "medical facilities in its consortium." As an example, one commenter was not sure whether a cyclotron producing PET radionuclides, that is located at a facility owned by Company A but operated under a separate license by a different Company B, would need a commercial distribution license. The commenter also asked for clarification on whether Company B would need a medical distribution license if it also supplied PET radionuclides to other facilities in its geographical area under contract.

Another commenter noted that only noncommercial distribution to a medical consortium was addressed, and not the noncommercial distribution within the consortium in support of research and development. The commenter asked that the NRC expand its proposed regulatory framework to include authorization for licensees producing PET radionuclides, drugs, and biologics to allow noncommercial transfer to any licensee approved for research and development uses of these materials. This commenter also asked the NRC to provide specific guidance on what is considered commercial transfer and noncommercial transfer in advance of requiring license application and amendment submissions for the production of accelerator-produced radionuclides. The commenter's interest was based on its being funded to do research involving nonstandard radionuclides and to make the results available to the research community and others. The commenter asserted that the NRC, in the past, approved similar efforts by universities to produce and supply nonstandard radionuclides not otherwise available.

NRC Response: The NRC recognizes that the PET radionuclide production facility may be located in a medical facility, educational institution, or Federal facility that has formed a consortium to produce PET radioactive drugs for its members. The NRC is adding a definition of *Consortium* in 10 CFR 30.4 to clarify the purpose and members of a consortium. In general, the members of the consortium jointly own or share in the operation and maintenance cost of the PET radionuclide production facility, and the production facility or another member of the consortium produces PET radioactive drugs (including radioactive biologics) only for its consortium member's medical uses. The NRC's authorization for the noncommercial distribution of PET radioactive drugs within a medical use consortium is not dependent on an authorization by a State to produce PET radionuclides for noncommercial distribution. A person or a licensee that has or receives PET radionuclides from a PET radionuclide production facility may request authorization for noncommercial distribution of PET radioactive drugs within its consortium. The NRC will review the request along with the description of the consortium during the licensing review process to ensure eligibility for noncommercial distribution and issuance of the authorization.

For clarification purposes, the NRC, in the final rule, has moved the noncommercial distribution provisions for PET radioactive drugs to 10 CFR Part 30. For noncommercial distribution of PET radioactive drugs, the NRC is applying the same requirements as those included in 10 CFR 32.72 for commercial distribution of these drugs.

Regarding different licensing situations, a university that has both a 10 CFR Part 30 license and a 10 CFR Part 35 license could transfer PET radioactive drugs to its medical facility without a commercial distribution license. If the PET radionuclide production facility produces PET radioactive drugs and is located at a medical facility, but owned, operated, and licensed by another entity under a 10 CFR Part 30 license, then the PET radionuclide production facility licensee would need a 10 CFR 32.72 license to distribute PET radioactive drugs to the medical facility for medical use. If a PET radionuclide production facility produces PET radioactive drugs and wants to distribute excess PET radioactive drugs to other licensees outside its consortium, a 10 CFR 32.72 commercial medical distribution license would be required. In general, a PET radionuclide production facility may transfer excess PET radionuclides to other licensees that are authorized to

receive such PET radionuclide transfer under 10 CFR 30.41. However, if a PET radionuclide production facility produces radionuclides for commercial distribution, then a distribution authorization would be required as well. An applicant's intent regarding noncommercial distribution, transfer, or commercial distribution will be evaluated as part of the licensing review process to ensure that the proper license or authorization is issued.

A PET radionuclide production facility is required to obtain a 10 CFR Part 30 license for production, possession, and use of byproduct material. Under 10 CFR 30.41, a licensee is allowed to transfer byproduct material (including PET radionuclide) to any person authorized to receive such byproduct material. However, as required in 10 CFR Part 35 regulations, medical use licensees can only obtain PET radioactive drugs for medical use from persons meeting specific requirements for commercial distribution of radioactive drugs in 10 CFR 32.72. There are no such limitations for nonmedical use. Therefore, a specific provision would be needed to allow medical use licensees to obtain PET radioactive drugs through noncommercial distribution or from persons not covered under 10 CFR 32.72. A new provision is added in 10 CFR 30.32(j) to allow a PET radionuclide production facility to noncommercially distribute PET radioactive drugs to members of its consortium. Such a provision is not needed for a PET radionuclide production facility to transfer PET radionuclides because transfer is already allowed under 10 CFR 30.41.

Comment: A commenter requested that the NRC clarify whether facilities that prepare PET drugs for use in research under Investigational New Drug exemptions (INDs) filed with the FDA, or used in research conducted under approvals granted by Radioactive Drug Research Committees (RDRCs) operating as branches of the FDA under 21 CFR 361.1, would be considered "registered" by the FDA.

NRC Response: As specified in 10 CFR 30.32(j) and 10 CFR 32.72, being registered with the FDA is only one of the five ways that an applicant can demonstrate that it is qualified to produce PET radioactive drugs for noncommercial or commercial distribution to medical use licensees. Because the NRC neither interprets nor enforces FDA requirements, it is the applicant's responsibility to provide documentation of the proper FDA registration. If there is a question as to whether a specific facility that prepares PET drugs under INDs or RDRCs is "registered" by the FDA, the applicant should contact FDA for a determination.

It is important to note that a 10 CFR Part 35 medical use licensee may obtain unsealed byproduct material for uptake, dilution, excretion, imaging, or localization from an NRC or Agreement State licensee that prepared the material for research in accordance with an RDRC-approved protocol or an IND protocol accepted by FDA as permitted in current provisions of 10 CFR 35.100 and 35.200. This provision is separate from the provision that the byproduct material must be obtained from a commercial manufacturer or preparer licensed under 10 CFR 32.72 or by noncommercial distribution from a member of its consortium under 10 CFR 30.32(j).

Comment: A commenter expressed concern that language in the proposed rule could place undue burden on health care providers who use cyclotrons for the production of radiotracers by requiring them to meet FDA's Good Manufacturing Practices (GMPs) standard that is applied to commercial entities producing products for sale to the public. The commenter stated that it was inappropriate to apply GMPs to noncommercial production of radiotracers. The commenter stated that: (1) the EPAct does not give the NRC the authority to require health care providers to follow GMPs in their clinical practices; (2) enforcing drug production quality standards falls under FDA's jurisdiction, and the NRC should not enforce FDA requirements; (3) such a requirement would have a detrimental effect on exploration of new treatment pathways; and (4) health care providers have not been required to apply commercial GMP standards previously. The commenter asserted that regulation of cyclotron byproduct material should not include processes involving drug production and patient care. The commenter further indicated that the production of radiopharmaceuticals using a cyclotron is no different than using a molybdenum or rubidium generator.

NRC Response: The NRC disagrees that its regulations would require health care providers to follow GMPs in their clinical practice. The NRC requires licensees that distribute radioactive drugs (including radioactive biologics) to medical use licensees to be qualified to produce radioactive drugs for medical use. To demonstrate this qualification, the NRC requires in 10 CFR 30.32(j) and 10 CFR 32.72 that the applicant or licensee submit evidence that it meets at least one of the following criteria: (1) be registered with the FDA, (2) be registered or licensed with a State agency as a drug manufacturer, (3) be licensed as a pharmacy by a State Board of Pharmacy, (4) be operating as a nuclear pharmacy within a Federal medical institution, or (5) be a PET drug production facility registered with a State agency. The FDA's rule on Good Manufacturing Practice for PET drugs establishes criteria for the production and process/quality controls of PET drugs in PET centers registered with the FDA. While the NRC recognizes the FDA registration in the NRC's regulations, registration with the FDA is only one of five different criteria that licensees may meet to demonstrate they are qualified to distribute radioactive drugs to medical use licensees.

The NRC agrees that the production of radiopharmaceuticals using radionuclides from a cyclotron is no different than using molybdenum or rubidium generators. The producer of the molybdenum generator is registered with the FDA as a drug manufacturer and is licensed by the NRC under both 10 CFR Part 30 and 10 CFR 32.72. The use of the generator to prepare other radioactive drugs is required in 10 CFR 32.72 to be done by a commercial nuclear pharmacy or in 10 CFR 35.200 to be done at the medical use facility by an AU meeting specific training and experience criteria or an ANP. The NRC has applied the same flexibility in recognizing that certain drugs are produced by facilities registered with the FDA or States and that other drugs are prepared by or under the supervision of AUs or ANPs.

Comment: A commenter recommended that the NRC should include an exemption for changes that involve the addition or relocation of either a PET radionuclide production area or a radionuclide delivery line from the PET production area from license amendment or the NRC notification requirements for broad scope Type A licenses under 10 CFR 35.15. The commenter stated that this allowance is consistent with the level of authority the NRC has historically granted under this list of exemptions.

NRC Response: The NRC agrees with the commenter and revised proposed 10 CFR 35.15(f) to make it clear that a Type A specific license of broad scope is exempt from the notification provisions in 10 CFR 35.14(b)(5). In this final rule, the NRC's licensing practice for Type A specific licenses of broad scope is to have the licensee describe significant facilities, such as the PET radionuclide production area or radionuclide delivery tube, and provide the NRC its criteria for reviewing and approving the addition or relocation of these facilities.

The broad scope licensee with a PET radionuclide production facility will need to submit an application to license the production facility and, if applicable, increase its radionuclide possession levels.

Comments on Waste and Decommissioning

Decommissioning and Decontamination

Comment: A commenter noted that under the proposed rule, activities under the new definition of Byproduct material would need to be licensed within 6 to 12 months after the final rule takes effect. The commenter requested clarification as to whether this new requirement would result in MML licensees having to permit/license all sites containing radium or radium contamination due to radium paint operations or gauge maintenance. The commenter noted that current U.S. Air Force (USAF) policy is to forgo permitting sites, until intrusive characterization of the site has been performed. The commenter requested that the NRC state whether this rule would affect the current USAF policy.

NRC Response: As previously discussed, since the publication of the proposed rule, and after considering the comments on the new definition of *Byproduct material*, the Commission has taken a closer look at the scope of the Commission's jurisdiction over the newly added byproduct material including discrete sources of radium-226. The EPAct covers material that is "produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for commercial, medical, or research activity." Notwithstanding that a discrete source of radium-226 may have originated from a commercial supplier, the Commission has determined that discrete sources of radium-226 still under the control of the military do not constitute "commercial use" under the EPAct and are, therefore, outside the Commission's jurisdiction. Defining "commercial use" to include all material supplied to the military from a commercial supplier would result in virtually all military use of this material to be "commercial use." This would vitiate any distinction that the EPAct intended to make for military use, as opposed to commercial use, by excluding military use from its coverage.

However, this exclusion from the coverage of the EPAct only applies to a certain type of military use, i.e., NARM used for "military operations." The term "military operations" covers what is traditionally understood as the military's primary-mission for national defense, including warfare, combat, and battlefield missions, and, of course, training for battlefield missions. NARM used, or available for use, for these purposes would be excluded from the coverage of the EPAct and from the coverage of this rule. If the material is intended for use in military operations, it is excluded from the coverage of this rule notwithstanding the fact that it was originally produced by a commercial supplier. In addition, "military operational" material includes material still under the control of the military, i.e., in storage, or material that may be subject to decontamination and disposal. Other use of NARM by the military would be covered by this rule.

The NRC no longer authorizes specific byproduct material use licensees to bury licensed materials at their facility. Although the MML licensee cannot issue permits for new burial sites, licensees are required under 10 CFR 30.35 to maintain documentation of information that is necessary for decommissioning.

Comment: A commenter stated that Actinide/radium-226 surface contamination levels less than 1000–1500 dpm/100cm^2 are typically not detectable at 1–2 sigma counting statistics. The commenter stated that radium-226 captured in clothing/porous materials could have much higher counting errors and asked if the NRC has accepted the technological shortfall for detection of radium-226 and proposed an alternative.

NRC Response: Licensees are required to "demonstrate" to the NRC that post remediation contamination levels meet the release criteria for their sites. "Demonstration" includes specifically addressing instrumentation used for detecting and measuring the contamination. If instruments can't detect the contamination, other means to identify contamination levels must be addressed in the licensee's Decommissioning Plan. The NRC guidance documents NUREG–1757, "Consolidated NMSS Decommissioning Guidance," and NUREG–1575, "Multi-Agency Radiological Survey and Site Investigation Manual," both address instrumentation.

Comment: Two commenters requested that the NRC modify its regulations in 10 CFR 30.36 to allow a longer time frame of at least 10 years for completion of decommissioning for accelerator production facilities. One commenter stated that decommissioning of a particle accelerator and its associated facility can range from a return of a self-shielded cyclotron unit to the manufacturer to a major cleanup of an older accelerator unit and its facility. The commenter stated that cost for decommissioning will be significantly impacted by the time frame allowed to complete this action. Under the current 10 CFR 30.36 regulations, completion of decommissioning for an accelerator production facility could be required in as little as 48 months following cessation of operation. On the other hand, under 10 CFR 50.82, decommissioning of a power reactor is required to be completed within 60 years following cessation of operation. Hence, the commenter requested that the NRC modify its regulations in 10 CFR 30.36 to allow a longer time frame of at least 10 years for completion of decommissioning for accelerator production facilities.

NRC Response: The NRC's regulations in 10 CFR 30.36 require that the site or any separate building or outdoor area that has not been used for 2 years must be promptly remediated if the remediation activities are allowed by the existing license. If remediation activities are not allowed under an existing license, the licensee must develop a decommissioning plan and submit a request for a license amendment within 1 year. The decommissioning process must be completed within 2 years, unless an alternative schedule for completion of decommissioning is approved by the Commission.

The level of effort for decommissioning a radioactive material production facility depends on many factors such as the design, age, operating condition, and usage of the accelerator and the type of facility where the accelerator is located. Decommissioning activity can range from simply a return of a self-shielded cyclotron unit to the original manufacturer to a more complicated cleanup of an older accelerator unit and its facility. Because alternative schedules for decommissioning are allowed within the existing regulations, there is no need to modify 10 CFR 30.36.

Comment: In response to the NRC's request for comments on the decommissioning of accelerator facilities and accelerator components, one commenter requested clarification in Part 35 that the term decommissioning does not apply to the removal or replacement of a linear accelerator used for medical treatment. Another commenter recommended that the NRC include a specific exemption that states that "decommissioning" does not include: (a) replacement of one medical accelerator for another; (b) upgrading of a medical accelerator; (c) replacement of one cyclotron for

another within the same facility; or (d) upgrading of an existing cyclotron.

NRC Response: The EPAct gave the NRC the authority to regulate any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted for use for a commercial, medical, or research activity. Under the EPAct, the NRC only has authority over the radioactive material and not over accelerators including linear accelerators used for medical treatment. Because linear accelerators used for medical treatment do not produce radioactive material that is used for commercial, medical, or research activities, the NRC will not be regulating the activated material that may be produced during medical treatment.

Because medical linear accelerators and activated material associated with these types of accelerators are not regulated by the NRC, no specific exemption is needed for non-NRC regulated material, including replacement or upgrade of a medical linear accelerator. Decommissioning regulations are not applicable to nonregulated material such as a medical linear accelerator.

Replacement or upgrade of a cyclotron is not typically considered a decommissioning activity; therefore, an exemption for such activity would not be required. However, if the cyclotron is used to produce radioactive material for commercial, medical, or research activities, and accelerator components become activated incidental to the production of radioactive material, both the radioactive material and the components would be regulated as licensed material. The activated components would require decommissioning upon cessation of licensed activity. If licensed activity continues, the replacement or upgrade of a cyclotron or its activated components would be addressed in the license. The removed cyclotron and its activated components are considered licensed material and would be treated as radioactive waste.

Comment: A commenter stated that the NRC should address volumetric contamination of materials by activation/spallation and recommended that the NRC develop release criteria for the various accelerator-produced radionuclides.

NRC Response: For decommissioned sites, the release criterion for unrestricted use is 25 mrem per year (0.25 mSv per year) as listed under 10 CFR Part 20, Subpart E, and 10 CFR 30.36, including all radionuclides and all pathways. If an accelerator is used to produce regulated material, and accelerator components become activated incidental to the production of the regulated material, the activated components would be licensed and subject to 10 CFR Part 20, Subpart E, and 10 CFR 30.36 requirements.

Even though the NRC has, in the past, considered exposure criteria for release of waste and contaminated scrap, no rule has been adopted regarding exposure criteria. Currently, the NRC does not plan to develop release criteria for various accelerator-produced radionuclides. Activated waste produced in an accelerator will be treated like any other radioactive waste. Guidance regarding decommissioning and waste disposal can be found in NUREG–1757, "Consolidated NMSS Decommissioning Guidance."

Comment: Two commenters asked whether the NRC will be proposing acceptable de minimus values, release criteria, or remediation criterion for surficial and volumetric radium contamination on building structures and soil that can be generally applied to decommissioning operations. One commenter asked if the NRC accepts 5 pCi/gram of soil as volumetric de minimus values that EPA or States have approved for radium-226 contamination release value at certain remediation sites.

NRC Response: Currently, there are no de minimus values or release criteria for decommissioning sites. As provided in 10 CFR 20.1402, the release criterion for unrestricted use is 25 mrem per year (0.25 mSv per year) for all sources and all pathways. The NRC will only accept a release value of 5 pCi/gram (0.185 Bq) for radium-226 contamination in soil if the site will also meet the NRC's release criterion of 25 mrem per year (0.25 mSv per year).

The NRC does have screening values for building surfaces and surface soil concentrations. Screening values are based on the 25-mrem per year (0.25-mSv per year) release criterion and can be used to simplify decommissioning efforts where low levels of contamination exist. Screening values are listed in tables included in Appendix B of NUREG–1757, "Consolidated Decommissioning Guidance-Decommissioning Process for Materials Licensees," for each radionuclide for building surfaces and soil surfaces. These screening values are not de minimus values. Unlike de minimus values, the screening values were developed under certain site conditions (e.g., type of facility, depth of soil contamination, type of surface contamination); therefore, screening values may only be used if a site meets these specific conditions. For a site with mixed radionuclides, the "unity rule" (or sum of the fractions rule) applies, and screening values would change depending on the site's isotopic mixture. There are only a few sites that can use the screening method for decommissioning because sites are very different from each other, and most sites do not meet the conditions for using screening values.

Comment: One commenter provided some insight on a radium-226 dosimeter calibration source breach at a facility in the 1950s and indicated that current survey equipment has difficulty detecting actinide contamination under 1000–1500 dpm/100cm^2. The commenter stated that if the radium-226 breach occurred before the 1970s, it is likely that the contamination still exists. Because the NRC has taken authority over all past, present, and future radium-226 sources, the commenter asked whether the NRC's authority includes authority over the contamination resulting from a radium-226 source breach.

NRC Response: Under the EPAct, the NRC has the regulatory authority over all past, present, and future discrete sources of radium-226 and any contamination associated with the discrete sources. However, the NRC does not intend to require nonlicensed owners of properties that may be contaminated with radium-226 to obtain licenses. If contamination is discovered at a nonlicensed person's facility, such as contaminated buildings or grounds, the NRC will work with the facility owner to perform decommissioning of the site. If the site presents a significant threat to the public health and safety, the NRC may order the owner to obtain a license and to perform decommissioning of the site. In addition, the NRC may seek assistance from EPA to consider listing the site on EPA's National Priority List and clean up the site under the CERCLA or Superfund Program. Any arrangement between the NRC and EPA regarding regulatory authority over decommissioning would be agreed upon on a site-specific basis.

Comment: One commenter indicated that a number of gaslight and luminous production sites are abandoned, and some are Superfund sites. The commenter asked whether the NRC has the financial ability to clean up these sites.

NRC Response: The NRC does not perform or provide funds for cleanup of contaminated sites because the NRC does not have authority in spending Federal funds for conducting cleanup activities. The NRC relies solely on licensees or property owners to perform

the necessary cleanup work. Unlike the NRC, EPA has the funds under the CERCLA or Superfund Program to evaluate the extent of the contamination and to conduct the cleanup efforts. EPA also has the statutory authority to recover the cost associated with the cleanup activities from the potentially responsible parties.

Comment: One commenter asked whether there will be any requirements for the NRC's review of radium-contaminated sites that have been remediated before the effective date of this rule.

NRC Response: The NRC does not intend to revisit sites that have already been remediated. If sites are discovered to be contaminated with sufficient quantities of radionuclides to potentially warrant additional decommissioning, the NRC will contact and work with the owner of the property to re-commence the decommissioning process.

Comment: One commenter asked how the NRC will review decommissioning plans and final status surveys for sites where AEA Section 91(b) materials may be the predominant contaminant with respect to AEA materials regulated by the NRC and whether there is a limit of the NRC's interests in these sites.

NRC Response: Decommissioning of a licensed facility falls under the requirements of 10 CFR part 20, Subpart E, and 10 CFR 30.36. The NRC will review decommissioning plans and the final status survey to ensure that the licensed facility meets the release criterion of 25 mrem per year (0.25 mSv per year) for unrestricted use for all radionuclides and all pathways. The NRC will use this approach for all sites that are contaminated by any licensed material including sites where unlicensed radionuclides such as Section 91(b) material contribute to the dose estimates in the all-pathway analysis. The NRC has no regulatory authority over a site that is contaminated with only Section 91(b) material and not licensed material.

Comment: One commenter raised a question on whether the NRC will subsume the predominant regulatory role for remediation of sites that predate the USAF MML and were established under AEC purview.

NRC Response: The NRC has the predominate regulatory role in the decommissioning of sites under the MML. Sites containing licensed material must be decommissioned under 10 CFR part 20, subpart E, and 10 CFR 30.36 requirements regardless of whether such sites predate the MML or were under the purview of AEC.

Comment: Two commenters expressed their concern regarding the statement in the Statements of Consideration for the proposed rule that only radionuclides with a half-life of more than 120 days, that are present in sufficient quantities to cause a public health and safety concern, need to be addressed for the purpose of establishing adequate financial assurances for decommissioning leading to license termination. One commenter requested that the final rule include specifications of which radionuclides and the threshold amounts would be sufficient to lead to license termination. Another commenter recommended that the term "sufficient quantities" be defined in terms of 10 CFR part 20 dose limits.

NRC Response: In the proposed rule, the term "sufficient quantities" is referring to quantities of radionuclides with a half-life of more than 120 days for the purpose of establishing adequate financial assurance for decommissioning leading to license termination. The specific quantities are established in 10 CFR 30.35. For unsealed byproduct material in quantities exceeding 10^5 times, or for sealed sources or plated foils in quantities exceeding 10^{12} times the applicable quantities in Appendix B to 10 CFR part 30, the licensee is required to submit a decommissioning funding plan. For unsealed byproduct material in quantities exceeding 10^3 but less than or equal to 10^5 times, or for sealed sources or plated foils in quantities exceeding 10^{10} but less than or equal to 10^{12} times the applicable quantities in Appendix B to 10 CFR part 30, the licensee is required to submit either a decommissioning funding plan or a certification that financial assurance for decommissioning had been provided in the amount prescribed in 10 CFR 30.35(d). Revising the quantities requiring financial assurance is beyond the scope of this rule.

For license termination, the release criterion for unrestricted use is 25 mrem per year (0.25 mSv per year) as listed under 10 CFR part 20, subpart E, and 10 CFR 30.36. All radionuclides, regardless of the quantities present, must be considered in the all-pathway analysis in demonstrating compliance with the release criteria.

Waste Disposal

Comment: One commenter asked whether radioactive waste site licenses will need to be changed to reflect the newly regulated radioactive materials and whether it is the waste site licensee's responsibility to incur the cost of changing the license.

NRC Response: Waste site licenses may or may not need to be amended to include newly regulated radionuclides. The need for amending a license will depend on how the existing license identifies the licensed material (listed as a group of radionuclides or listed by each individual radionuclide). The cost for a license amendment would be the responsibility of the licensee.

Comment: One commenter asked whether there are disposal sites that can inexpensively dispose of consumer products and luminous light sources. If not, the commenter stated that abandonment may become the only method of disposal.

NRC Response: There are radioactive waste disposal sites, licensed by the Agreement States, and hazardous or solid waste disposal sites, permitted by the EPA or its authorized States, available for disposal of the newly added byproduct material. Disposal charges are set by each of the disposal facilities based on the type of material and the contamination level. It is the licensee's responsibility to locate a disposal facility that could accept the waste and to negotiate disposal cost.

There are also certain manufacturers that accept returned or spent sources from their customers. In the past, DOE has, in certain unique situations, cooperated with the NRC and the CRCPD in collecting certain orphaned sources for storage and/or disposal at DOE facilities due to lack of disposal options. However, these programs are typically limited in scope and designed for urgent needs.

In general, consumer products are manufactured by a specific license and distributed to consumers as an exempt product. These consumer products contain very small amounts of radioactive material in order to meet the stringent criteria for an exempt product. There are no disposal requirements for exempted products based on the amount of the radioactive material present and the negligible impact to public health and safety. Hence, exempt products are allowed to be disposed of in municipal landfills.

Comment: One commenter was concerned regarding the disposal of exempted smoke detectors containing radium-226.

NRC Response: This issue is discussed earlier in this document under "Exemption of Certain Radium-226 Items."

Comment: One commenter asked if the NRC will accept decay-in-storage as a method of disposal for accelerator-produced medical radionuclides. The commenter also asked whether decay-in-storage could also be applied to

accelerator components that are volumetrically activated or spallated, and whether the time period under which the accelerator is turned off or in a low energy mode could be counted as the decay-in-storage time.

NRC Response: Decay-in-storage has been, and will continue to be, an accepted means for disposal of radionuclides with short half lives, including medical radionuclides. Activated components either within or removed from the accelerator will be treated as any other radioactive source. Therefore, activated components contaminated with short-lived radionuclides with half lives less than 120 days will be allowed to use decay-in-storage as a disposal method. Activated components contaminated with radionuclides with half lives greater than 120 days would either have to be disposed of as radioactive waste or have to be addressed later during decommissioning as part of the license termination process.

Comment: For decay-in-storage or disposal, a commenter asked whether accelerator-produced medical radionuclide users will be able to ignore short-lived radionuclides. As an example, the commenter noted that many "hundreds of thousands" of fluorine-18 disintegrations on the skin surface will produce only microrem doses to the skin or deep tissue.

NRC Response: All accelerator-produced radionuclides, including short-lived radionuclides, will be regulated. Licensees may not ignore short-lived radionuclides in meeting the NRC's regulatory requirements. However, licensees may use decay-in-storage as a means for disposal in accordance with the NRC criteria.

Comment: One commenter stated that decommissioning of accelerator facilities can result in the removal of building materials and accelerator parts that are activated. Recycling and disposal of material that meet the NRC's materials contamination limits may still trigger detectors at landfill and scrap facility checkpoints. The commenter recommended that the NRC consider exposure criteria for release of these materials.

NRC Response: In the past, the NRC has considered development of exposure criteria for release of waste and scrap through the rulemaking process. Due to public comments on the rulemaking effort, the NRC decided to defer the rulemaking to a later date, and no rulemaking on this issue was promulgated.

Sites released for unrestricted use based on the 25-mrem per year (0.25-mSv per year) criterion specified in 10 CFR Part 20, Subpart E, have no restrictions placed on the use of the site or disposition of material located on the site or disposal of waste or materials from the site. If a detector is triggered at a landfill, the operator of the landfill should notify the State or another regulatory authority. Typically, the NRC would be notified of the event, but, in most cases, no action would be taken because the material met the NRC's release criteria.

If the site is discovered to be recontaminated to levels above the release criteria, the NRC may contact the site owner or former licensee to begin the decommissioning process.

Comment: A commenter concurred with the NRC's proposed approach towards waste disposal to change Part 20 to redefine the definition of *Waste* to allow disposal of the newly added byproduct material in the NRC-regulated disposal facilities or in a disposal facility permitted under Federal or State solid or hazardous waste laws. However, the commenter questioned whether such an approach may be arbitrary or capricious, since other similar low-level wastes may still fall under the Compact jurisdiction (i.e., Section 11e.(1) byproduct material). The commenter suggested that this situation could be avoided by managing the radium as radioactive material instead of byproduct material.

NRC Response: The commenter appears to be concerned that it may be arbitrary to treat some byproduct materials as low-level waste and some as non-low-level waste and suggested to manage the newly added byproduct material as radioactive material instead of as byproduct material. However, the EPAct defines the newly added byproduct material, i.e., discrete sources of radium-226 and accelerator-produced radioactive material, as a byproduct material. Defining the newly added byproduct material as radioactive material would be inconsistent with the statutory requirement. In addition, the NRC only has authority to regulate AEA material and not all radioactive material. Because the discrete source of radium-226 is a byproduct material, and byproduct material is only a subset of radioactive material, treating radium-226 as radioactive material instead of byproduct material would have the appearance that the NRC has regulatory authority over all radioactive material.

The EPAct provides an additional disposal approach for the newly added byproduct material to include disposal at a disposal facility permitted under Federal or State solid or hazardous waste laws. This approach is consistent with many existing State programs that regulate naturally occurring and accelerator-produced radioactive material as radioactive material and not as byproduct material. In addition, this approach would enhance proper and timely disposal of the newly added byproduct material. Similar to low-level waste disposal facilities, disposal facilities permitted under Federal or State solid or hazardous waste laws also need to consider all radionuclides as source terms in conducting the performance assessment and in formulating the waste acceptance criteria to ensure protection to public health and safety and the environment.

Comment: One commenter concurred with providing multiple options for disposal of the newly added byproduct material but was not sure if this is consistent with some compacts' definitions. The EPAct and the NRC state that the new byproduct material is not low-level radioactive waste (LLW) such that it is not to be impacted by the compact process of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA). The commenter stated that this seems "backward," as the Rocky Mountain Compact specifically captures radium in its definitions and traditionally has treated discrete radium as LLW.

NRC Response: Although the newly added byproduct material would not be considered LLW with respect to the compact process of the LLRWPAA, the newly added byproduct material may still be disposed of at an LLW disposal site. The EPAct provides additional options for disposal of the newly added byproduct material and does not prohibit the existing option of LLW disposal.

Comment: Because the newly added byproduct material would be allowed to be disposed of in either the NRC-regulated disposal facilities or in a disposal facility permitted under Federal or State solid or hazardous waste laws, a commenter asked if waste disposed of in a CERCLA site would incur "potential responsible parties" (PRP) status should the solid or hazardous waste facility fail.

NRC Response: Currently, disposal sites already dispose of radium-226 and other accelerator-produced and naturally occurring radioactive material as daughter products or as radioactive waste. The EPAct allows these disposal sites to continue with their current practice. Therefore, nothing would change for these disposal sites under the new regulations. The EPA has jurisdiction over any site that becomes a CERCLA or a Superfund site, and the EPA has the statutory authority to recover cleanup cost from PRPs. Under

the Superfund, any party who is associated with the site, used the site, disposed of material at the site, or contributed to the contamination at the site could all be considered as a PRP and liable for the cleanup.

Comment: A commenter indicated that any disposals in solid or hazardous waste facilities must take into account potential release of radium from the discrete source and therefore radon. The commenter suggested that discrete sources can be further encapsulated before burial as a treatment to reduce the potential for radium leakage and mitigate the potential for radon.

NRC Response: Disposal facilities need to consider all radionuclides and their daughter products when conducting the performance assessment and when developing the waste acceptance criteria regarding the type of radioactive waste that may be safely disposed of at the site. Depending on the performance assessment and the waste acceptance criteria, certain disposal facilities may require additional treatment of certain wastes to control the daughter products or migration of certain radionuclides. However, the NRC sees no reason to require further encapsulation of discrete sources before disposal because waste forms would depend on site-specific waste acceptance criteria for each disposal site.

Financial Assurance

Comment: Two commenters strongly support an exemption for facilities with 18-MeV or less cyclotrons from the requirements of 10 CFR 30.35 for financial assurance for decommissioning because they do not believe these cyclotrons are capable of producing activation products in the quantity sufficient to trigger the financial assurance requirements. One commenter stated that this approach should be the standard in all non-Agreement States. In addition, these commenters stated that many burdensome expenditures are associated with calculating and securing financial assurance for decommissioning, including expensive concrete bunker boring and analysis. These costs would inevitably put some existing medical and scientific accelerator facilities out of business and would also deter prospective hospitals and educational institutions from obtaining onsite cyclotrons, potentially impacting patient access to services. In support of an exemption, one commenter stated that it could provide data to the NRC on incidental activation resulting from a 16.5-MeV cyclotron running at maximum beam current at maximum duty cycle.

NRC Response: Although the commenters do not believe cyclotrons operating at 18-MeV or less are capable of producing activation products in the quantity sufficient to trigger the financial assurance requirements, supporting data have not been provided to the NRC. Financial assurance is required for the cost associated with decommissioning. Cost for decommissioning a cyclotron depends heavily on the complexity of decommissioning activities, which would be impacted by multiple factors such as design of the cyclotron, operating conditions, maintenance practices, and usage period. A standardized approach would not be suitable for all cyclotrons with various designs. The NRC's financial assurance regulations require financial assurance for decommissioning costs based on the type, quantity, half-life, and physical form of the radionuclides authorized in the license. The regulations implement a graded approach that requires increased financial assurance as the authorized quantity of licensed material increases. If the license authorizes a quantity above a threshold amount, financial assurance is required. Financial assurance is required because the cost of decommissioning should be borne by the organization that obtains the benefits of using the licensed material. The need for financial assurance increases where the decommissioning activities are complex or costly.

The cost of preparing a cost estimate for decommissioning cannot be avoided because the licensee must perform its obligation to decommission the facility at the end of licensed operations. Likewise, the cost of characterizing the extent of contamination cannot be avoided because characterization is necessary to prepare a decommissioning plan.

A licensee can reduce its financial assurance costs in several ways allowed by the regulations. The licensee can reduce its licensed possession limits to a level below the threshold that requires financial assurance, or to a level that allows lower amounts of financial assurance. The financial assurance regulations permit a licensee to submit a site-specific decommissioning funding plan. If the prescribed amounts of financial assurance exceed a reasonable estimate of decommissioning costs, the licensee may submit a site-specific decommissioning funding plan to justify a lower amount of financial assurance. Information relevant to the amount of radioactive material that must be removed to permit license termination, and the cost of doing so, can be presented in the license application.

The financial assurance regulations allow for a number of different financial instruments to provide financial assurance, which allows the licensee to select the lowest cost alternative. Consequently, the NRC does not anticipate creating an exception from financial assurance requirements for cyclotron licensees.

Comment: One commenter stated that the NRC should urge the Agreement States to adopt their current requirements for decommissioning through IMPEP for Agreement States.

NRC Response: Agreement States are required under AEA Section 274 b. to adopt the NRC's regulations according to the compatibility designations within 3 years. Agreement State programs are regularly evaluated through IMPEP reviews. The NRC has worked, and will continue to work, closely with the Agreement States to ensure that State programs are compatible with the NRC.

Comment: One commenter indicated that there should also be surety requirements for decommissioning of facilities used to manufacture sealed sources.

NRC Response: If the manufacturer of sealed sources has possession limits that exceed the threshold amount, it will be required under existing NRC regulations to provide financial assurance. Threshold quantities are included in 10 CFR 30.35.

Comment: One commenter stated that decommissioning funding should account for activation products because some activation products, such as rebar and steel structural components from accelerator facilities, have half lives longer than 120 days and could pose a disposal issue. Gamma exposure due to activated products could be an issue in certain scenarios. If a licensee were to abandon its facility, the potential certainly exists for new legacy sites that the NRC is trying to avoid.

NRC Response: If an accelerator is used to produce regulated material, and accelerator components become activated incidental to the production of the regulated material, the activated components would be licensed and subject to 10 CFR Part 20, Subpart E, and 10 CFR 30.36 requirements. In accordance with 10 CFR 30.35, financial assurance for decommissioning of licensed material is required based on the radionuclides and threshold quantities authorized in the license. Financial assurance provides funds for the licensee to conduct decommissioning activities or to hire a third-party contractor to decommission

a facility. These funds could be used in the event a licensee abandoned its facility.

Comments on Other General Requirements

10 CFR Part 20, Appendix B, Derived Air Concentration (DAC)

Comment: Several commenters recommended that the NRC should use specific values for nitrogen-13 and oxygen-15 in 10 CFR part 20, appendix B. One commenter stated that the use of default values does not allow the licensee to use a risk-based approach for compliance.

Most of the commenters endorsed the DAC values for nitrogen-13 and oxygen-15 calculated by Dr. Michael Stabin at Vanderbilt University. The commenters noted that Dr. Stabin based his calculations on EPA Federal Guidance Report No. 12 (FGR–12) in conjunction with exposure limits and times used by the NRC in other calculated values in 10 CFR part 20, Appendix B. The commenters also noted that the dose conversion values from FGR–12 are used by the NRC in other applications and for other radionuclides currently in 10 CFR part 20, appendix B.

The commenters recommended that the DAC values for nitrogen-13 and oxygen-15 calculated by Dr. Stabin should be rounded to one significant number and added to part 20, appendix B.

NRC Response: In Section G of the proposed rulemaking, the NRC requested comments on a number of specific issues, including the adequacy of the applicable default ALIs and DACs in 10 CFR part 20, appendix B, for oxygen-15 and nitrogen-13, and whether staff should develop larger specific values for these radionuclides. All six commenters addressing this issue believed that specific values for DAC should be used rather than the current default DAC value of 10^{-7} and 10^{-9} microcuries per milliliter of air for occupational and member of the public, respectively. Reasons given that the default values in 10 CFR part 20, appendix B, were not appropriate included: (1) They are unnecessarily restrictive default values that can result in unjustified cost for unnecessary radiological monitoring and controls; (2) the use of default values in general does not allow the licensee to use a risk-based approach to compliance; (3) values in the proposed rule would be unreasonably low; and (4) FGR–12 dose conversion values are endorsed and used by the NRC in other applications, such as dose modeling in support of the License Termination Rule.

One commenter submitted an analysis and DAC values for nitrogen-13 and oxygen-15 to be incorporated in 10 CFR part 20, appendix B, Table 1, Column 3, and Table 2, Column 1, for the DAC occupational value and air effluent concentration value. This was endorsed by several commenters. The analysis used dose equivalent conversion factors for submersion in a semi-infinite cloud from FGR–12, "External Exposure To Radionuclides in Air, Water, and Soil," along with exposure parameters used by the NRC in other calculations in 10 CFR part 20, appendix B.

Models describing deposition and retention in the respiratory tract, levels and times of absorption to blood, and the biokinetics involved were not available. The ICRP publications for workers or members of the public do not have dose coefficients for radionuclides with half-lives less than 10 minutes. ICRP Publication 53, Radiation Dose to Patients from Radiopharmaceuticals (1987), does have dose coefficients for inhalation of these radionuclides, but the biokinetic models generally are not directly applicable to worker intakes or environmental emissions. Because information was not available for dose conversion factors for intakes of oxygen-15 and nitrogen-13 to compare with the dose conversion factors for submersion, the NRC arranged for a study during the comment period. The purpose of the study was to develop scientifically sound inhalation dose coefficients for occupational and public exposures to forms of nitrogen-13 and oxygen-15, in order to compare DAC values from inhalation with DAC derived from submersion in contaminated air. The study developed biokinetic models describing deposition and respiratory tract retention, levels and time for absorption into blood, and systemic biokinetics of absorbed activity. Dose coefficients and derived air concentrations were developed for inhalation of nitrogen-13 as a gas and as ammonia, and oxygen-15 as molecular oxygen and as water vapor. The dose coefficients for submersion in air contaminated with nitrogen-13 and oxygen-15 were taken from FGR–12. These coefficients for air submersion are virtually identical because of their similar photon emissions.

The study verified that the limiting dose is from submersion in a cloud of the radionuclide and also arrived at limiting values for submersion that were submitted by the commenter, above, and that were endorsed by three other commenters. In light of the supporting documentation and technical basis for providing a specific value for the DACs for oxygen-15 and nitrogen-13 from submersion in a semi-infinite cloud, the NRC is incorporating values of 4E–6 microcuries per milliliter for the occupational value in Table 1, Column 3, and 2E–8 microcuries per milliliter for the effluent concentration in Table 2, Column 1, of Appendix B to 10 CFR part 20, for submersion values of both radionuclides.

Other Comments on Exemptions and General License

Comment: Some commenters agreed with the NRC's proposed delineation of particle accelerators into three varieties. The commenters agreed that the category of accelerators operated to produce only particle beams and not radioactive material, which include linear accelerators used in radiation therapy, should not be regulated. One commenter supported the NRC's proposal not to regulate incidental radioactive material produced by medical linear accelerators.

The commenters recommended that the NRC expand the exclusion in the final rule to include a specific exemption for commercially available linear accelerators used only for medical purposes to treat patients. One of the commenters recommended that the following or similar language may be appropriate: "Particle accelerator means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt and does not include machines that only produce particle beams and not radioactive materials. For purposes of this definition, accelerator is an equivalent term."

NRC Response: The NRC regulates radioactive material produced by using particle accelerators but does not regulate particle accelerators, including linear accelerators. Therefore, the NRC cannot include in its regulations the exemption suggested by the commenters. The definition for particle accelerator incorporated in the NRC regulation is the same as the definition found in the SSRs. The commenter suggested adding a statement to the definition indicating that it does not include machines that produce particle beams and not radioactive material. The NRC does not believe this statement needs to be added because the NRC does not regulate accelerators and revising the definition of *Particle accelerator* as suggested by the commenter would introduce unnecessary confusion and inconsistency with State regulations.

Comment: A commenter noted a potential case in which the use of

byproduct material may not be covered by the proposed regulations. The commenter asked if a person, in an Agreement State who received byproduct material before September 25, 1971, for use under an Agreement State's general license similar to the general license then provided in 10 CFR 31.4, could still possess the radioactive material under 10 CFR 30.18(b). The commenter asserted that the new 10 CFR 30.18(b) should cover the old byproduct material as well as newly regulated accelerator-produced radioactive material.

NRC Response: The Commission agrees that the proposed wording of 10 CFR 30.18 did not cover materials distributed for use under the previous equivalent general license of Agreement States that may now be used within the NRC's jurisdiction. The wording has been corrected in the final rule to address this comment.

Comment: A commenter noted that in the Section-by-Section Analysis under Section 30.18 exempt quantities, it was stated that Paragraph (b) would be revised to include accelerator-produced radioactive material that had been received or acquired under the general license in 10 CFR 31.4. The commenter did not believe that 10 CFR 31.4 provided coverage of accelerator-produced radioactive material.

NRC Response: The Commission agrees that the Section-by-Section Analysis on this provision did not appropriately describe the proposed change, and this is corrected in this notice.

Comment: A commenter stated that the discussion for general licenses in 10 CFR 31.5 does not address consistency with 10 CFR 35.65, which authorizes sealed source possession. The commenter requested clarification of regulatory requirements for sealed sources under 10 CFR part 35 that are also generally licensed under 10 CFR 31.5. A similar clarification was also suggested with respect to the general license in 10 CFR 31.8.

In addition, the commenter noted that the proposed rule does not address possible alternative licensing methods for a generally licensed sealed source that is subject to registration requirements and fees but that might also be listed as a sealed source on a specific license and achieve the same level of regulatory oversight and tracking. Further, the commenter stated that the discussion does not clearly indicate whether the requirements in 10 CFR 31.5 are for all sealed sources or only registered sealed sources.

NRC Response: The possession and use of a source or device is not authorized by both a general and a specific license concurrently, or by more than one general license. The general license in 10 CFR 31.5 only covers sealed sources incorporated into a device, although in some cases, a specialized source housing may also be considered a device. The general license in 10 CFR 31.8 only covers americium-241, and now radium-226, calibration and reference sources with a maximum possession limit of 5 μCi (185 kBq) at any one time in any one place. All devices under 10 CFR 31.5 and sources under 10 CFR 31.8 must have a label that identifies them as generally licensed devices or sources.

The regulations in 10 CFR 35.65 provide specific authority for medical use licensees to receive, possess, and use certain specifically licensed sealed sources and other byproduct material. This section does not authorize the possession of generally licensed sources or devices. Although a 10 CFR part 35 licensee may also possess sealed sources and devices as authorized by these general licenses, it does so under the general license provisions of 10 CFR 31.5 and 10 CFR 31.8.

A specific licensee may use a source or device authorized under a general license under the authority of its specific license if the licensee requests transferring the authority from the general license to the specific license and provides assurance that requirements of both licenses are met. This practice normally arises because of the registration and fees associated with certain devices covered by the 10 CFR 31.5 general license.

Devices being authorized for use under 10 CFR 31.5 and equivalent Agreement State regulations are evaluated for registration in the SS&D registry. In large part, SS&D certificates for devices containing radium-226 and accelerator-produced radioactive material have been added to the SS&D registry, as a means of sharing this information amongst the States, even though NRC did not regulate these materials in the past. If these devices have been authorized under State regulations that are similar to NRC requirements, the NRC would accept these devices containing radium-226 or accelerator-produced radioactive material as generally licensed under 10 CFR 31.5, and would also expect users to follow the requirements of 10 CFR 31.5 without regard to whether or not the State registered the device in the SS&D registry before the effective date of this final rule.

Comments on Licensing Fees and Fee Categories

Comment: One commenter felt that the discussion in the Statements of Consideration for the proposed rule related to license application and annual fees was not clear in providing the average professional staff hours for the licensing categories, and suggested that to assist stakeholders in reviewing this proposed rulemaking, the average and total professional staff hours be listed by categories. The commenter suggested that the breakdown for these categories, and any possible changes in the annual fee for existing licenses that might require an amendment based on the proposed rule, be in 0.25 full time equivalent (FTE) units. The commenter also felt that the discussion related to accelerator-produced radioactive material was unclear as to whether the discussion applied only to commercial distribution or also applied to noncommercial distribution.

NRC Response: The FTE breakdown for the proposed new fee categories could be calculated based on the hourly rate and the time spent in reviewing license applications or in conducting inspections. The average license application hours used to calculate the license application fees (as presented in the proposed rule), for the proposed new fee categories 3.R.1, 3.R.2, 3.S., and the proposed revised 3.B. fee category, are 2.3, 5.4, 24, and 17.7, respectively. These values could be calculated by dividing the FY 2005 application fees by the hourly rate of $197, as described in the proposed rule.

As explained in the proposed rule, the annual fees for the materials users fee class are calculated based on the NRC's budgeted resources allocated to regulating these types of licensees, less any receipts received from this fee class for 10 CFR part 170 activities. The net dollar value of budgeted resources for this fee class is allocated to all materials users fee categories (subclasses), based on the average application and inspection hours associated with each fee category. The average inspection hours (associated with the annual fees presented in the proposed rule) for the proposed new fee categories 3.R.1, 3.R.2, 3.S., and revised 3.B. fee category, are 11.2, 12.2, 21.8, and 18.6, respectively.

The NRC's fee calculations are described in further detail each year in its fee rulemakings and supporting documentation. These rulemakings include details on the FTE and contract dollars allocated to the materials users fee class, for each agency-planned activity level. On February 2, 2007 (72

FR 5108), the NRC published in the **Federal Register** its FY 2007 proposed fee rule. The proposed fee rule, and its supporting documentation, presents and explains the fee calculations for all fee categories, including the new fee categories included in this rule. The final 2007 fee rule was published June 6, 2007 (72 FR 31402). Note that the NRC does not plan to assess fees for the new fee categories of 3.R.1, 3.R.2, and 3.S. until the effective date of this final rule.

The new fee category 3.S. applies to production of accelerator-produced byproduct material, i.e., a radionuclide production facility. Because specific provisions for noncommercial distribution of PET radioactive drugs within a consortium, which includes a PET radionuclide production facility, have been added to 10 CFR 30.32(j), there is no additional fee for noncommercial distribution of PET radioactive drugs. If an accelerator-produced radionuclide production facility wants to commercially distribute radioactive drugs, then the existing fee categories 3.C. and 3.D. would apply for the commercial distribution portion as well as the new fee category 3.S. for the radionuclide production portion of the activities.

Comment: A number of commenters did not agree that there was a need to establish the new fee category for the production of accelerator-produced radioactive materials, 3.S., in Section II.G.(7). These commenters felt that the existing fee categories covered byproduct materials whose possession, use, processing, manufacturing, distribution, and redistribution were similar to accelerator-produced byproduct material. One commenter stated further that using these existing fee categories was consistent with the NRC's conclusion regarding the "grandfathering" of medical uses, and that the choice of existing fee categories should be based on the type of particle accelerators used and the types and quantities of radioactive materials being produced. This commenter stated that the establishment of a new fee category was inconsistent with the NRC's attempt to minimize impact on the noncommercial distribution of PET radionuclides, drugs, and biologics.

While not supporting the 3.S. fee category, another commenter requested that, if retained, the language of the final rule explicitly state that fee category 3.S. would be applied per facility, not per accelerator, and that the NRC should be mindful that additional costs would inevitably be passed on to the health care system and patients.

NRC Response: The NRC is retaining the new fee category 3.S. because the NRC incurs budgeted resources in regulating the production of accelerator-produced radioactive material, which are in addition to the budgeted resources the NRC incurs in regulating the activities covered by existing fee categories. Therefore, the NRC believes a separate fee for this activity is appropriate. The fee is applicable for each licensed facility regardless of how many accelerators reside in the facility.

Comment: One commenter recommended that exceptions be extended to IRS-designated 501(c)(3) organizations operating in whole or in part as an accredited school of watch and/or clock repair and/or specialty museum with a primary focus on housing and exhibiting timepieces and related objects.

NRC Response: Exemptions of persons from the NRC's regulations for timepieces and repairs of timepieces are discussed earlier in subsection "Comments Related to Radium-226." In 10 CFR 170.11 and 171.11, the NRC lists fee exemptions for license fees and annual fees for certain licensees, including those for nonprofit educational institutions. In 10 CFR 170.3 and 171.5, a nonprofit educational institution is defined as "a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public." Historically, the NRC has not included any fee exemptions for museums. Because the final rule contains exemption for intact timepieces containing less than 37 kBq (1 μCi) of radium-226 and general license provisions for various items containing radium-226, the NRC does not expect this rule to have major impacts on museums that would necessitate the NRC to establish a fee exemption in its regulations. Under 10 CFR parts 170 and 171, an applicant or a licensee may file a fee exemption request with the NRC, and the NRC will evaluate each request on a case-by-case basis. Requests for a fee exemption must be filed with the NRC within 90 days from the effective date of this final rule establishing the annual fees for which the exemption is sought. However, filing of an exemption request does not extend the date on which the bill is payable.

Comments on Waiver Termination and Transitioning

Comment: A commenter noted that some non-Agreement States may continue to require licenses or registration for the production of accelerator-produced radioactive materials, along with their associated fees. The commenter stated that some States have already indicated that they will require a NARM license regardless of whether an NRC license is required. The commenter stated that this situation would expand, rather than streamline, regulation of radioactive materials.

The commenter noted that it understood that the States will continue to regulate radiation-producing accelerators because the NRC will not have jurisdiction over the possession and operation of these machines. The commenter stated that the NRC should be aware of its concern that some States will not discontinue their current license requirements for the resulting accelerator-produced materials and recommended that the NRC address this in its Transition Plan.

NRC Response: Upon expiration of the waiver, non-Agreement States will no longer have authority to license the radioactive material produced in an accelerator for use for commercial, medical, or research activities. The production of the radioactive material, however, is only one facet of the operation of the accelerator. Because the NRC only has regulatory authority over the radioactive material and not the accelerator, some non-Agreement States may continue to license the accelerator and its operation. It is possible that certain producers of radioactive material may be required to hold two licenses: One from the State for possession and operating the accelerator, and one from the NRC for the possession and use of the byproduct material produced by the accelerator. This would not be an issue for the Agreement States because the Agreement State will be the only regulatory authority for radiation control within its State.

The NRC has worked very closely with both Agreement States and non-Agreement States in developing the Transition Plan. The Transition Plan includes various scenarios and implementation guidance to ensure a smooth regulatory transition. On October 25, 2006, the NRC transmitted the proposed Transition Plan to the States for comments. The NRC will consider State comments in finalizing the Transition Plan and plans to publish the final Transition Plan subsequent to the publication of the final rule but

before the effective date of this final rule.

Comment: A commenter requested that to protect the supply chain with regard to radiopharmaceuticals, the NRC should work closely with OAS and the CRCPD, as well as the States themselves, to address any licensing or transactional issues that may arise as a result of the transition of authority.

NRC Response: The NRC has worked closely with OAS and CRCPD and involved the Agreement States and non-Agreement States throughout the rulemaking process and the development of the Transition Plan. The NRC is committed to continued cooperation with the States during the transition process.

Comments: A number of respondents emphasized the importance of stakeholder education and guidance to assure a smooth transition to the NRC's regulatory control. Two commenters expressed interest in the development of a comprehensive guidance document to be released upon implementation of the rule, and another commenter mentioned assistance to stakeholders through an outline of proposed revisions to the existing regulatory guidelines. One commenter also offered its organization's publications, websites, and meetings to assist the NRC with outreach to the medical user community.

NRC Response: The NRC is developing guidance in a separate action parallel to this rulemaking. A writing team was established in July 2006 to amend existing guidance and, if necessary, to develop new guidance within the NUREG–1556, "Consolidated Guidance About Materials Licenses," series of volumes to reflect the new authority over discrete sources of radium-226 and the accelerator-produced radioactive material. The NRC is in the process of revising Volume 9, "Consolidated Guidance About Materials Licenses Program-Specific Guidance About Medical Use Licenses" and Volume 13, "Consolidated Guidance About Materials Licenses Program-Specific Guidance About Commercial Radiopharmacy Licenses." The NRC is developing new guidance, Volume 21, "Consolidated Guidance About Materials Licenses Program-Specific Guidance About Possession Licenses for Production of Radioactive Materials Using An Accelerator." The NUREG–1556 series provides guidance in areas of the NRC's jurisdiction and may be helpful to Agreement States. The NRC made the draft final guidance publicly available for comment after the draft final rule was made publicly available. The draft guidance documents were provided for comment to the States and the Advisory Committee on Medical Uses of Radioisotopes at that time. The NRC expects to finalize the guidance documents near the effective date of this rule (60 days after publication). The guidance documents are being published for use by current or potential NRC licensees. It is important to note that some Agreement States may already have similar guidance documents.

Comment: A commenter requested the NRC to confirm that on the effective date of the proposed rule, holders of licenses that authorize the use of licensed material at temporary job sites, where the NRC maintains jurisdiction, would be able to amend them to include accelerator-produced radionuclides. The commenter also requested the NRC to confirm that once such licenses were amended, the licensees would be able to perform activities using accelerator-produced materials authorized in the licenses, at temporary locations within non-Agreement States, upon termination of the waiver period on August 8, 2009.

NRC Response: On the effective date of this final rule or on the date of waiver termination, if that date is later, persons who use accelerator-produced radionuclides at temporary job sites may continue those activities regardless of whether they have an NRC license, provided that: (1) The person, with an NRC license that does not authorize use of byproduct material at temporary job sites where the NRC has jurisdiction, applies for an amendment to its license to authorize uses at these temporary job sites on or before 6 months from the effective date of this final rule or on the date of waiver termination, if that date is later; or (2) The person without an NRC specific license applies for a license on or before 1 year from the effective date of this final rule or on the date of waiver termination, whichever is later.

If the person already has an NRC license authorizing the use of byproduct material at temporary job sites where the NRC has jurisdiction, the person may continue those activities. With the amended definition of *Byproduct material* in the NRC's regulations, the term "Byproduct material" in the existing license will be interpreted as including accelerator-produced radioactive material. It is possible that an amendment may be needed to increase the maximum activity limits or add specific sealed sources or devices to the license.

If the person did not use accelerator-produced materials at temporary job sites before the date of waiver termination, and its existing license does not authorize the use of byproduct material at temporary job sites, the person must apply for and receive a license or amendment before using these materials.

Comment: Two commenters stated that if the NRC required the States to change their statutes, then the effective date for the final rule should be extended by 5 years in order for Agreement States to amend their State statutes and regulations. One commenter stated that it agreed with the proposed effective date for the final rule and other implementation periods only if the NRC did not require such a change from the States.

NRC Response: The NRC does not believe that changes to the State statutes would be required by this rulemaking. The NRC will apply existing policies and procedures to work with the Agreement States in implementing this rule. These existing policies and procedures allow considerable flexibility by the States in meeting the compatibility requirements. The Agreement States will have up to 3 years to adopt the compatible requirements of this rule. The NRC will continue to work with the States to resolve any issues that may arise.

Comment: A commenter called attention to the discussion in the Statements of Consideration for the proposed rule concerning the termination of the waiver issued by the NRC on August 31, 2005. The commenter noted that the discussion included a reference to a "special arrangement" that would need to be made between a State and the NRC if the State had not become an Agreement State by August 7, 2009, when the waiver will terminate. The commenter requested additional information on what would constitute a "special arrangement" between a State and the NRC, and how one could be obtained.

NRC Response: The NRC has considered this comment and has determined that the wording referred to by the commenter did not accurately describe the Commission's intent in this regard. What the Commission intended to convey was that it understands that situations may arise which may delay the completion and effective date of an Agreement. If an Agreement cannot be completed for a State before the waiver expires on August 8, 2009, the staff will determine, on a case-by-case basis, options to limit the impact of the transition of authority on affected users of the new byproduct material in the State.

The NRC has been communicating with the non-Agreement States that the Commission believes might be seeking

an Agreement in order to avoid this type of situation. The Commission will continue to closely coordinate with these States and monitor the process of completing any Agreements with these States in order to decrease the likelihood that this type of situation will arise.

Comment: A commenter recommended that the NRC clarify whether any additional actions are needed on the part of licensees that are currently covered by the waivers issued to the States.

NRC Response: The waiver was issued to all persons, including individuals and licensees as well as States, that acquire, deliver, receive, possess, own, use, or transfer the newly regulated byproduct material. No actions are needed on the part of these entities. Once the waiver is terminated, these persons or licensees are required to comply with the requirements of this rule or the corresponding requirements of the Agreement States.

Comment: A commenter felt that the discussion in the Statements of Consideration for the proposed rule under termination of the waiver for government agencies was not consistent with an earlier discussion in the Supplementary Information that concluded that radioactive materials would continue to be used in a manner protective of public health and safety. The commenter believed that the later discussion appeared to equate regulatory oversight with outcomes more protective of public health and safety. The commenter felt that the basis for concluding the waivers to be acceptable for a period of time, and then requiring termination of those waivers, should be explained.

NRC Response: The NRC does not agree that there are inconsistencies, as stated by the commenter, in the discussion in the Statements of Consideration for the proposed rule. As explained in the discussion concerning issuance of the waiver on August 31, 2005, the NRC was given regulatory authority over the new byproduct material when the EPAct became effective. Therefore, although the NRC did not have regulations in place that would specifically apply to this material, persons continuing to engage in activities involving the newly regulated byproduct material, and States seeking to continue to regulate this byproduct material would be in technical violation of the AEA. The NRC determined that it would be prudent to establish a mechanism to allow these activities to continue while the NRC established a regulatory framework for the new byproduct material. Section 651e(5) of the EPAct provides that the Commission could achieve this goal through issuing a waiver of the requirements of Section 651(e) if the Commission determined that the waiver was in accordance with the protection of public health and safety and the promotion of the common defense and security. The Commission determined that the waiver that it issued on August 31, 2005, met this requirement. However, the EPAct also mandated that any such waiver issued would have to expire no more than 4 years after the date of the enactment of the EPAct. Therefore, the waivers must expire no later than August 8, 2009, although under the EPAct, the Commission may terminate waivers at an earlier time if it finds such termination is warranted.

As explained in the discussion concerning the termination of the waiver, the NRC established a Transition Plan, as required by Section 651(e) of the EPAct, to facilitate an orderly transition of regulatory authority once the Commission had established a regulatory framework for regulating the new byproduct material. This regulatory framework has now been established through promulgation of this final rule. In accordance with the provisions of the Transition Plan, and to facilitate the transition of regulatory authority in an orderly manner, the waivers will be terminated in stages for users of the new byproduct material. As explained in the discussion for termination of the waiver for Government agencies and Federally recognized Indian Tribes, the Commission determined to terminate the waiver for these entities on the effective date of the final rule because there is currently limited regulatory oversight for the newly added byproduct material at these facilities. Options will be considered, on a case-by-case basis, to limit the impact of the transition of the authority on affected users of the new byproduct material in the State. Terminating the waiver for these entities at that time will provide for regulatory oversight of the newly added byproduct material.

Comment: A commenter stated that it holds Agreement State licenses and licenses from the NRC that authorize "radioactive material" for a broad range of radionuclides, i.e., any byproduct material with atomic numbers 1 through 83 or any byproduct material with atomic numbers 84 through 102. It also holds NRC licenses that authorize "byproduct material" for the same broad range of radionuclides. The commenter requested that the newly regulated byproduct materials be authorized under the current license authorizations until the licenses are renewed or amended. The commenter recommended that one way to accomplish this would be to provide a general license for specific licensees containing broad scope authorizations. As an alternate approach, the commenter suggested that the rule could provide that licensees authorized for such activities as using, receiving, or possessing radionuclides with a range of atomic numbers are similarly authorized with respect to the newly regulated radionuclides. The commenter stated that these licensees already have the controls in place to allow for safe handling of the new radionuclides and that the blanket authorization will save the licensees and the NRC paperwork and expenses. The commenter suggested that the NRC could request information by letter on which licensees are handling the newly regulated radionuclides.

NRC Response: From the commenter's description of its NRC specific license authorization, it should already be authorized to use the newly regulated byproduct material. With the amended definition of Byproduct material in the NRC regulations via this rule, the use of Byproduct material in an existing license will be interpreted as authorizing all radioactive materials that fall under the newly expanded definition of Byproduct material. With the broad authorization in the specific license, a license amendment would only be needed if the quantity possessed for one or more particular radionuclides exceeds the individual limits specified in the existing license authorization. If an amendment is needed, the regulations provide that all licensees have 6 months from the effective date of this final rule or from the waiver termination date to submit an amendment request. In addition, the amended regulation would allow licensees to continue to use the newly regulated materials until the NRC takes final licensing action provided that the amendment request was submitted within the allotted time. The NRC believes that it has already provided adequate relief in its regulations to assure a smooth transition once the licensee's waiver is terminated, and that neither a general license nor a rule change is necessary for this purpose.

Comment: Two commenters requested that the NRC allow sufficient time for users to prepare for the regulatory change by simultaneously terminating all waivers August 7, 2009, and not chance the supply disruption of PET radionuclides, drugs, and biologics. The commenter stated that there were many differing State regulations for NARM, and that a step-by-step approach to

terminating State waivers could leave unintended voids in the regulations, thus disrupting supplies of PET radionuclides. Another commenter requested that the NRC terminate all waivers at the same time on August 7, 2009, to avoid disruption. The commenter stated that accelerator-production facilities, which were designed and built to meet less restrictive State regulations, may require significant time to be modified to meet the NRC's regulations, and older facilities may require special approvals from the NRC.

NRC Response: The EPAct requires that all waivers must be terminated no later than 4 years after the date of enactment of the EPAct. As explained in the discussion concerning the termination of the waiver, the NRC established a Transition Plan, as required by Section 651(e) of the EPAct, to facilitate an orderly transition of regulatory authority once the Commission had established a regulatory framework for regulating the newly added byproduct material. This regulatory framework has now been established through promulgation of this final rule.

The NRC recognizes the importance of minimizing disruption of PET radionuclides, drugs, and biologics and that many States have regulatory programs for NARM. While all of the waivers cannot be terminated in conjunction with the August 7, 2009, statutory deadline, the NRC is revising the proposed rule [10 CFR 30.3(c)(2) and (c)(3), 10 CFR 32.1(c)(2), 10 CFR 35.11(c)(2), and 10 CFR 35.13(a)(2)] to provide for some waivers to be terminated in conjunction with the expiration of the waiver on August 7, 2009. One aspect of the implementation approach in the proposed rule provided that requests for licensing actions (e.g., amendments or new applications) would need to be received by the NRC on or before August 7, 2009, or earlier, depending upon the date of the waiver termination. This would essentially mean waivers would need to be terminated in August 2008, in order to provide all affected persons the same amount of time, as discussed in the draft Transition Plan, to submit licensing actions to the NRC. In response to the comment, the NRC is revising the proposed rule to provide for some waivers to be terminated in conjunction with the expiration of the waiver on August 7, 2009. The NRC plans to terminate waivers in stages starting from the effective date of this final rule and ending on August 7, 2009. When the waiver is terminated for persons in a State, all persons in that State have to comply with the NRC regulations for the newly defined byproduct material, regardless of whether a license has been issued by the NRC. If the waiver has not been terminated for the State, all persons in the State are still permitted under the waiver to continue to use the newly defined byproduct material.

The NRC does not agree that supplies of PET radionuclides will be disrupted. Under the waiver, PET radionuclide production facilities can continue to produce PET radionuclides. Once the waiver is terminated, a PET radionuclide production facility may continue to produce PET radionuclides while its license application or amendment request is under review, provided that a license application is submitted within 1 year or an amendment request within 6 months from the date of waiver termination. Medical use licensees can continue to receive PET radionuclides from these production facilities or PET radioactive drugs from drug manufacturers or commercial nuclear pharmacies either under the waiver or under the NRC's regulations allowing continued operation provided that the license application or amendment request was submitted within the allotted time.

Comments: Two commenters stated that the transition time created by the waiver was critical for the non-Agreement States so that patient care and research activities could continue without interruption. These commenters requested that the NRC maintain the waiver until the local medical and scientific communities become fully prepared for the new licensing costs and requirements.

NRC Response: The EPAct authorized the NRC to grant waivers for 4 years from the date of enactment of the Act; it did not include any provisions that would allow the NRC to extend the waiver beyond the statutory deadline of August 8, 2009. The NRC recognizes the importance of continuing patient care and research activities without interruption and the need for local medical and scientific communities to have adequate time to become fully prepared for the new licensing costs and requirements.

The NRC has taken several steps to ensure a smooth transition of the NRC's regulatory authority over the newly defined byproduct material. In addition to preparing a Transition Plan, the NRC has, in this rulemaking, included regulatory provisions for persons or licensees in a non-Agreement State to continue using the newly defined byproduct material after the waiver is terminated for that State provided a license application or an amendment request is submitted within the allotted time frame. The NRC believes that its transitioning approach and the regulatory provisions will provide adequate time for licensees to transition to the new regulations without interrupting patient care or research for the following reasons: First, most medical and scientific communities in the non-Agreement States are already using both the traditional byproduct materials and the newly defined byproduct materials in similar uses; therefore, regulatory impact, including licensing fees and radiation safety programs, to these people should be minimal to none. Second, the NRC has made rulemaking-related documents and draft rules publicly available to keep stakeholders informed. Third, the NRC has allowed time for applicants to prepare new license applications or amendment requests in the regulations, during which they may continue to use the newly regulated byproduct material to provide for a smoother transition.

Comment: Two commenters were concerned that a "phased-in" approach for terminating the waivers issued in August 2005 had not been structured to allow for the transfer of PET radionuclides, drugs, and biologics to an NRC licensee from a radionuclide or drug production facility using accelerators that has not yet had the waiver terminated. One commenter asked for clarification of potential impacts to the medical community due to early termination of the waiver to Federal facilities such as Veterans Hospitals (i.e., could Federal facilities still accept radioactive drugs from companies that are still covered under the waiver).

NRC Response: The NRC's phased waiver termination plan will not affect the transfer of PET radionuclides, drugs, and biologics to an NRC licensee from a PET radionuclide production facility that has not yet had the NRC waiver terminated. For example, a Government agency that is currently receiving PET radionuclides or drugs under the waiver may continue to be able to receive PET radionuclides or drugs from a PET radionuclide and drug producer or distributor when its waiver is terminated. Upon waiver termination, the Government agency's existing license or MML permit may already be authorized to receive PET drugs if the license or MML permit is for all *Byproduct material*. If the Government agency has used PET radionuclides and drugs under the waiver and the license (or MML permit) needs to be amended, the Government agency may continue to use the PET radionuclides and drugs while preparing the amendment and

until the NRC (or the MML licensee) makes its final licensing decision, provided that an amendment request is submitted within 6 months from the date of waiver termination. If the Government agency used PET radionuclides and drugs under the waiver and did not have an NRC license (or MML permit), the Government agency may still continue to use the PET radionuclides and drugs while preparing a new license application and until the NRC (or the MML licensee) makes its final licensing decision, provided that a license application is submitted within 1 year from the date of waiver termination.

While all of the waivers cannot be terminated in conjunction with the August 7, 2009, statutory deadline, the NRC is revising the proposed rule [10 CFR 30.3(c)(2) and (c)(3), 10 CFR 32.1(c)(2), 10 CFR 35.11(c)(2), and 10 CFR 35.13(a)(2)] to provide for some waivers to be terminated in conjunction with the expiration of the waiver on August 7, 2009. The NRC plans to terminate waivers in stages starting from the effective date of this final rule and ending on August 7, 2009.

These same principles would apply to the PET radionuclide and drug producers or distributors. After this rule becomes effective, the PET radionuclide and drug producers or distributors may continue to operate until the waiver is terminated for them. Once the waiver is terminated, they may continue to operate if the existing license authorizes all "byproduct material" or as authorized by this rule while preparing a new license application or an amendment request or while waiting for the NRC's final licensing decision, provided that the license application or amendment request is submitted within the allotted time as stated in this rule.

IV. Section-by-Section Analysis of Final Revisions

Part 20—Standards for Protection Against Radiation

The authority citation for this part is revised to reflect the EPAct.

Section 20.1003—Definitions

The definition of *Byproduct material* is revised to reflect the new definition as mandated in Section 651(e) of the EPAct.

Definitions for *Accelerator-produced radioactive material, Discrete source,* and *Particle accelerator* are added.

A definition of *Waste* is added to clarify that, as mandated by the EPAct, byproduct material as defined in Sections 11e.(3) and 11e.(4) of the AEA is not low-level radioactive waste as defined in the LLRWPAA.

Section 20.1009—Information Collection Requirements: OMB Approval

Reference to § 20.2008 is added.

Section 20.2001—General Requirements

Paragraph (a)(4) is revised to include the new § 20.2008 which addresses disposal of waste.

Section 20.2006—Transfer for Disposal and Manifests

Paragraph (e) is added to require the use of uniform manifests for disposal of byproduct material as defined in Sections 11e.(3) and 11e.(4) of the AEA if intended for ultimate disposal at a land disposal facility licensed under 10 CFR Part 61.

Section 20.2008—Disposal of Certain Byproduct Material

This section is added to part 20 to address disposal requirements for byproduct material as defined in Sections 11e.(3) and 11e.(4) of the AEA.

Appendix B to Part 20—Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage

The List of Elements table is revised to include the elements nitrogen and oxygen that are now considered byproduct material. Tables 1, 2, and 3 are revised to specifically include nitrogen-13 and oxygen-15 and their associated values.

Part 30—Rules of General Applicability to Domestic Licensing of Byproduct Material

The authority citation for this part is revised to reflect the EPAct.

Section 30.3—Activities Requiring License

This section is revised to inform Government agencies, Federally recognized Indian Tribes, other licensees, and other persons who possessed and used byproduct material as defined in Section 11e.(3) of the AEA under the provisions of NRC's waiver (70 FR 51581; August 31, 2005) which sections of the regulations will apply to them when their waiver is terminated before issuance of an amendment or new license for byproduct material. For the Government agencies and Federally recognized Indian Tribes, requirements for the newly added byproduct material will apply to them on the effective date of the final rule.

This section is also revised to allow for transition for Government agencies, Federally recognized Indian Tribes, other persons, and other licensees, who possessed and used byproduct material as defined in Section 11e.(3) of the AEA under the waiver, to continue to use these materials while applying for and receiving licenses or amendments to existing licenses. This section revises the authority and responsibilities of persons or licensees that do not file for the license or amendment within the required time with respect to receipt, use, possession, and disposal of byproduct material and the decommissioning of facilities.

Section 30.4—Definitions

The definition of *Byproduct material* is revised to be consistent with the new definition in the AEA, with the exception that it does not include byproduct material as defined in Section 11e.(2) of the AEA.

The following definitions are added to this section: *Accelerator-produced radioactive material, Consortium, Cyclotron, Discrete source,* and *Particle accelerator.*

Section 30.15—Certain Items Containing Byproduct Material

This section is revised to add paragraph (a)(1)(viii) to authorize 0.037 MBq (1 μCi) of radium-226 per timepiece in intact timepieces manufactured before the effective date of the final rule.

Section 30.18—Exempt Quantities

Paragraph (b) is revised to include byproduct material received or acquired before September 25, 1971, under a general license provided in 10 CFR 31.4 or by a State provision similar to 10 CFR 31.4.

Section 30.20—Gas and Aerosol Detectors Containing Byproduct Material

Paragraph (a) is revised to apply to gas and aerosol detectors manufactured or distributed before the effective date of the final rule in accordance with a specific license issued by a State with comparable provisions to 10 CFR 32.26.

Section 30.32—Application for Specific Licenses

Paragraph (g) is revised to accept information from sealed source or device registrations with regard to NARM issued by the States under provisions comparable to 10 CFR 32.210 as a basis for licensing the use of sources and devices. The paragraph is also revised to allow a basis for licensing sources or devices containing NARM, that were manufactured before the effective date of the final rule, are not registered with the Commission

under 10 CFR 32.210 or with an Agreement State, and for which all the information identified in 10 CFR 32.210 is unavailable.

Paragraph (j) is added to this section to inform an educational institution, a medical facility, or a Government facility applicant of the information required by the NRC to authorize the production of PET radioactive drugs used for medical uses under 10 CFR part 35 for the noncommercial transfer to medical facilities in its consortium.

Section 30.34—Terms and Conditions of Licenses

Paragraph (g) is revised to require licensees to measure strontium-82 and strontium-85 contamination before use of the first eluate when eluding strontium-82/rubidium-82 generators.

Paragraph (j) is added to clarify that nothing in the authorization under 10 CFR 30.32(j) relieves the licensee from complying with FDA, other Federal, or State requirements for radioactive drugs, and to include requirements associated with the labeling and production of PET radioactive drugs by licensees authorized under the provisions of 10 CFR 30.32(j) to produce PET radioactive drugs for the noncommercial transfer to medical use licensees in their consortium. This section also requires licensees to use the notification process in 10 CFR 32.72 when permitting qualified authorized nuclear pharmacists to work as ANPs.

Section 30.71—Schedule B

Schedule B is revised to include 13 radionuclides that are now considered byproduct material and their associated exempt quantities.

Section 30.72—Schedule C—Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release

The table in Schedule C is revised to specifically include radium-226 and its associated values.

Part 31—General Domestic Licenses For Byproduct Material

The authority citation for this part is revised to reflect the EPAct.

Section 31.4—Information Collection Requirements: OMB Approval

Reference to §31.12 is added.

Section 31.5—Certain Detecting, Measuring, Gauging, or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere

Paragraph (b)(1) is revised to add authority under the general license for byproduct material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in an equivalent specific license issued by a State with comparable provisions to 10 CFR 32.51.

Paragraph (c)(13)(i) is revised to add radium-226, with an activity of at least 3.7 MBq (0.1 μCi) to the criteria for devices requiring registration.

Section 31.8—Americium-241 and Radium-226 in the Form of Calibration or Reference Sources

The section heading and paragraph (a) are revised to include radium-226 in a general license for calibration and reference sources.

Paragraph (b) is revised to recognize sources manufactured or initially transferred in accordance with the specifications contained in a specific license issued by a State with comparable provisions to 10 CFR 32.57.

Paragraph (c)(1) is revised to include an activity limit of 0.185 MBq (5 μCi) of radium-226.

Paragraph (c)(2) is revised to include radium-226 in the labeling requirement, with the provision added to footnote 1 that, for those sources manufactured before the effective date of the final rule, sources containing radium-226 shall be labeled in accordance with the applicable State regulations at the time of manufacture or import.

Paragraphs (c)(4), (d), and (e) are revised to include radium-226.

Section 31.11—General License for Use of Byproduct Material for Certain In Vitro Clinical or Laboratory Testing

Paragraphs (a) and (c) are revised to include cobalt-57 in the list of authorized byproduct material for use in in vitro clinical or laboratory testing.

Paragraph (d) is revised to allow receipt of prepackaged units that are labeled in accordance with a specific license issued by a State with comparable provisions to 10 CFR 32.71.

Sections 31.12, 31.13, and 31.14 Are Redesignated as §§ 31.21, 31.22, and 31.23, Respectively

Section 31.12—General License for Certain Items and Self-luminous Products Containing Radium-226

This section is added to the regulations to add a general license for certain items and self-luminous products containing radium-226 that were manufactured before the effective date of the final rule. The general license addresses radium-226 contained in products such as antiquities; timepieces; luminous items installed in air, marine, or land vehicles; all other luminous products; and small radium sources containing no more than 0.037 MBq (1 μCi) of radium-226.

The general license exempts persons from the provisions of 10 CFR parts 19, 20, and 21, and 10 CFR 30.50 and 10 CFR 30.51.

The general license includes requirements for notification, reporting, disposal, and certain prohibitions. However, the general license allows timepieces containing radium-226 to be disassembled and repaired.

Part 32—Specific Domestic Licenses To Manufacture or Transfer Certain Items Containing Byproduct Material

The authority citation for this part is revised to reflect the EPAct.

Section 32.1—Purpose and Scope

A new paragraph (c) is added to inform Government agencies, Federally recognized Indian Tribes, other licensees, and other persons who manufacture or initially transfer items containing accelerator-produced radioactive material or discrete sources of radium-226 for sale or distribution to persons exempted from the licensing requirements of part 30 of this chapter, and persons generally licensed under part 31 or part 35 of this chapter, and radioactive drugs and sources and devices to medical use licensees, that the requirements in part 32 will apply to them when their waiver is terminated before issuance of an amendment or new license for such activities. The requirements will apply to Government agencies and Federally recognized Indian Tribes on the effective date of the final rule.

This paragraph allows Government agencies, Federally recognized Indian Tribes, other persons, and other licensees who manufacture or initially transfer items containing accelerator-produced radioactive material or discrete sources of radium-226 for sale or distribution to persons exempted from the licensing requirements of part 30 of this chapter, persons generally licensed under part 31 or part 35 of this chapter, and radioactive drugs and sources and devices to medical use licensees to continue to manufacture or initially transfer these items to such persons when their waiver is terminated before issuance of an amendment or new license for such activities.

Section 32.57—Calibration or Reference Sources Containing Americium-241 or Radium-226: Requirements for License to Manufacture or Initially Transfer

The heading and the section are revised to add radium-226.

Section 32.58—Same: Labeling of Devices

This section is revised to include radium-226 in the example label.

Section 32.59—Same: Leak Testing of Each Source

This section is revised to include radium-226.

Section 32.71—Manufacture and Distribution of Byproduct Material for Certain In Vitro Clinical or Laboratory Testing Under General License

Paragraph (b)(8) is added to include cobalt-57, in units not exceeding 0.37 MBq (10 μCi) each, to the list of authorized byproduct material approved for distribution.

Paragraph (c)(1) is revised to include cobalt-57.

Section 32.72—Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Byproduct Material for Medical Use Under Part 35

Paragraph (a) is revised to ensure that the NRC's regulation encompasses all drug manufacturers that are registered with the FDA or a State agency. The description of who is registered with the FDA was updated to conform with FDA regulations.

Paragraph (b) is revised to recognize nuclear pharmacists, who prepared only accelerator-produced radioactive drugs, before the effective date of the final rule and authorized nuclear pharmacists identified on permits issued by master material licensees or by a master material permittee of broad scope, to work as authorized nuclear pharmacists at a commercial nuclear pharmacy under the notification process in 10 CFR 32.72.

Section 32.102—Schedule C—Prototype Tests for Calibration or Reference Sources Containing Americium-241 or Radium-226

The heading and section are revised to include radium-226.

Part 33—Specific Domestic Licenses of Broad Scope for Byproduct Material

The authority citation for this part is revised to reflect the EPAct.

Section 33.100—Schedule A

This table is revised to add four additional radionuclides and their associated values.

Part 35—Medical Use of Byproduct Material

The authority citation for this part is revised to reflect the EPAct.

Section 35.2—Definitions

The definitions of *Cyclotron* and *Positron Emission Tomography (PET) radionuclide production facility* are added.

Section 35.10—Implementation

Paragraph (a) is added to clarify that Government agencies and Federally recognized Indian Tribes possessing and using accelerator-produced radioactive material and discrete sources of radium-226 for medical use must comply with the requirements in this part on the effective date of the final rule. The paragraph also informs other persons using this material for medical use when they must comply with the requirements of this part.

Section 35.11—License Required

Paragraph (a) is revised, and paragraph (c) is added to allow Government agencies, Federally recognized Indian Tribes, and other persons who possessed and used accelerator-produced radioactive materials or discrete sources of radium-226, under the provisions of the NRC's waiver (70 FR 51581; August 31, 2005), to have time to apply for and receive a new medical use license and allow them to continue to use these materials, provided the new license was applied for in the time required. This section also provides the time period for applying for a new license.

Section 35.13—License Amendments

Paragraph (a) is modified to allow Government agencies, Federally recognized Indian Tribes, and other licensees that possessed and used accelerator-produced radioactive materials or discrete sources of radium-226, under the provisions of the NRC's waiver (70 FR 51581; August 31, 2005), to continue to use this material provided that they submit an application to amend their licenses in the specified time required. This section also provides the time period for amending licenses.

A new paragraph (b)(5) is added to permit physicians and pharmacists who only used accelerator-produced radioactive materials or discrete sources of radium-226 during the NRC's waiver (70 FR 51581; August 31, 2005) to use the notification process.

Paragraph (e) is modified to require an amendment before a licensee adds to, or changes, areas of use identified in the application or on the license, including areas used in accordance with either 10 CFR 35.100 or 35.200 if the change includes the addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area. Other areas of use where byproduct material is used only in accordance with either 10 CFR 35.100 or 10 CFR 35.200 continue to be excluded from this requirement.

Section 35.14—Notifications

Paragraph (a) is revised to address information needed for NRC notification of nuclear pharmacists and physicians who used only accelerator-produced radioactive materials and discrete sources of radium-226 who have not been identified on a license or permit during the NRC's waiver (70 FR 51581; August 31, 2005).

Paragraph (b) is revised to retain, in the notification requirements, any additions or changes in 10 CFR 35.100 or 10 CFR 35.200 areas of use, if the changes do not involve additions or relocations of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area.

Section 35.15—Exemptions Regarding Type A Specific Licenses of Broad Scope

Paragraph (f) is revised to clarify that the broad scope licensee is exempted from making the notification of addition or changes in 10 CFR 35.100 or 10 CFR 35.200 areas of use.

Section 35.57—Training for Experienced Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Authorized User, Nuclear Pharmacist, and Authorized Nuclear Pharmacist

A new paragraph (a)(3) is added to grandfather RSOs, medical physicists, or nuclear pharmacists who used only accelerator-produced radioactive materials or discrete sources of radium-226, or both, during the NRC's waiver (70 FR 51581; August 31, 2005) from training requirements and to recognize them as RSOs, AMPs, or ANPs for those same materials and uses.

A new paragraph (b)(3) is added to grandfather physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials or discrete sources of radium-226, or both, under the NRC's waiver (70 FR 51581; August 31, 2005) from training requirements and to recognize them as AUs for those same materials and uses.

Section 35.63—Determination of Dosages of Unsealed Byproduct Material for Medical Use

This section is revised to add a new provision in paragraphs (b)(2) and (c)(3)

to include PET radioactive drug producers licensed under 10 CFR 30.32(j) for the production of PET radioactive drugs transferred noncommercially to members of their consortium.

Section 35.100—Use of Unsealed Byproduct Material for Uptake, Dilution, and Excretion Studies for Which a Written Directive is Not Required

Paragraph (a) is revised to permit medical use licensees to obtain PET drugs from PET radioactive drug producers licensed under 10 CFR 30.32(j) for the production of PET radioactive drugs transferred noncommercially to members of their consortium.

Paragraph (b) is revised to continue to clarify that 10 CFR 35.100 licensees are not allowed to produce PET radionuclides.

Section 35.200—Use of Unsealed Byproduct Material for Imaging and Localization Studies for Which a Written Directive is Not Required

Paragraph (a) is revised to permit medical use licensees to obtain PET drugs from PET radioactive drug producers licensed under 10 CFR 30.32(j) for the production of PET radioactive drugs transferred noncommercially to members of their consortium.

Paragraph (b) is revised to clarify that 10 CFR 35.200 licensees are not allowed to produce PET radionuclides.

Section 35.204—Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

The section heading is revised to add strontium-82 and strontium-85.

Paragraph (a) is revised to address acceptable strontium-82 and strontium-85 concentrations when eluting strontium-82/rubidium-82 generators.

Paragraph (c) is revised and redesignated, and a new paragraph (c) is added to address measuring requirements for strontium-82 and strontium-85.

Section 35.300—Use of Unsealed Byproduct Material for Which a Written Directive is Required

Paragraph (a) is revised to permit medical use licensees to obtain PET drugs from PET radioactive drug producers licensed under 10 CFR 30.32(j) for the production of PET radioactive drugs transferred noncommercially to members of their consortium.

Paragraph (b) is revised to clarify that 10 CFR 35.300 licensees are not allowed to produce PET radionuclides.

Section 35.2204—Records of Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

The section heading is revised to add strontium-82 and strontium-85, and this section is revised to include a recordkeeping requirement of the strontium-82 and strontium-85 concentration tests required by 10 CFR 35.204(b) and (c).

Part 50—Domestic Licensing of Production and Utilization Facilities

The authority citation for this part is revised to reflect the EPAct.

Section 50.2—Definitions

The definition of *Byproduct material* is revised to be consistent with the new definition as mandated by the EPAct, with the exception that it will not include byproduct material as defined in Section 11e.(2) of the AEA.

Part 61—Licensing Requirements for Land Disposal of Radioactive Waste

The authority citation for this part is revised to reflect the EPAct.

Section 61.2—Definitions

The definition of *Waste* is revised to clarify that, as mandated by the EPAct, byproduct material, as defined in Sections 11e.(3) and 11e.(4) of the AEA, is not low-level radioactive waste as defined in the LLRWPAA.

Part 62—Criteria and Procedures for Emergency Access to Non-Federal and Regional Low-Level Waste Disposal Facilities

The authority citation for this part is revised to reflect the EPAct.

Section 62.2—Definitions

The definition of *Low-level radioactive waste (LLW)* is revised to clarify that byproduct material, as defined in Sections 11e.(3) and 11e.(4) of the AEA, is not considered low-level radioactive waste.

Part 72—Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste

Section 72.3—Definitions

The definition of *Byproduct material* is revised to be consistent with the definition in 10 CFR 30.4. This definition is consistent with the definition of *Byproduct material* in the EPAct, with the exception that it will not include byproduct material as defined in Section 11e.(2) of the AEA.

Part 110—Export and Import of Nuclear Equipment and Material

The authority citation for this part is revised to reflect the EPAct.

Section 110.2—Definitions

Definitions of *Accelerator-produced radioactive material, Discrete source,* and *Particle accelerator* are added.

Part 150—Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274

The authority citation for this part is revised to reflect the EPAct.

Section 150.3—Definitions

The definition of *Byproduct material* is revised to be consistent with the definition in the EPAct.

A definition of *Discrete source* is added.

Part 170—Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

The authority citation for this part is revised to reflect the EPAct.

Section 170.3—Definitions

The definition of *Byproduct material* is revised to be consistent with the new definition in the AEA, with the exception that it does not include byproduct material as defined in Section 11e.(2) of the AEA.

Section 170.31—Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses

This section is revised to include licenses that are not included in existing fee categories. Fee Category 3.B. is revised to include licenses for repair, assembly, and disassembly of products containing radium-226. Two new fee categories, 3.R. with additional subcategories and 3.S., are added to include fees for possession of items or products containing radium-226, which exceed the number of items or limits specified in 10 CFR 31.12, and for production of accelerator-produced radioactive material.

Part 171—Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC

The authority citation for this part is revised to reflect the EPAct.

Section 171.5—Definitions

The definition of *Byproduct material* is revised to be consistent with the new definition in the AEA, with the exception that it does not include byproduct material as defined in Section 11e.(2) of the AEA.

Section 171.16—Annual fees: Materials Licenses, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

This section is revised to include licenses that are not included in existing fee categories. Fee Category 3.B. is revised to include licenses for repair, assembly, and disassembly of products containing radium-226. Two new fee categories, 3.R. with additional subcategories and 3.S., are added to include fees for possession of items or products containing radium-226, which exceed the number of items or limits specified in 10 CFR 31.12, and for production of accelerator-produced radioactive material.

V. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act (AEA), the Commission is amending 10 CFR Parts 20, 30, 31, 32, 33, 35, 50, 61, 62, 72, 110, 150, 170, and 171 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

VI. Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule would be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among the Agreement States' and the NRC's requirements. The NRC staff analyzed the rule in accordance with the procedure established within Part III, "Categorization Process for NRC Program Elements," of Handbook 5.9 to Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs" (a copy of which may be viewed at *http://www.nrc.gov/reading-rm/doc-collections/management-directives/).*

The NRC program elements (including regulations) are placed into four compatibility categories (See the Compatibility Table in this section). In addition, the NRC program elements can also be identified as having particular health and safety significance or as being reserved solely to the NRC. Compatibility Category A are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C are those program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D are those program elements that do not meet any of the criteria of Category A, B, or C, above, and, thus, do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety (H&S) are program elements that are not required for compatibility but are identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this H&S category based on those of the NRC that embody the essential objectives of the NRC program elements because of particular health and safety considerations. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to Agreement States under the AEA, as amended, or provisions of Title 10 of the Code of Federal Regulations. These program elements are not adopted by the Agreement States. The following table lists the parts and sections that would be revised and their corresponding categorization under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs." A bracket around a category means that the section may have been adopted elsewhere, and it is not necessary to adopt it again.

The definition of *Byproduct material* in the AEA was expanded by Section 651(e) of the EPAct to incorporate certain discrete sources of radium-226 and certain accelerator-produced radioactive materials. The definition of *Byproduct material* in 10 CFR parts 20, 30, 50, 72, 150, 170, and 171 is amended to reflect the changes to the AEA. The definition of *Byproduct material* in parts 50, 72, 170, and 171 is reserved to the NRC. The definition of *Byproduct material* in 10 CFR parts 20, 30, and 150 are categorized as H&S. This designation is for regulatory program elements that have particular health and safety significance. The H&S designation indicates that the definition is needed for purposes of "adequacy." If NARM is included in the Agreement between the NRC and the Agreement State, then NARM would be a necessary program element of the Agreement State program to adequately ensure public health and safety. The definition of *Discrete source* has also been identified in this rule as H&S because it is part of the definition of *Byproduct material*.

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
20.1003	Amend	Definition: Byproduct Material (add 11e.(3) & 11e.(4) material).	[A]	[H&S]
20.1003	Add	Definition: Discrete Source		H&S
20.1003	Add	Definition: Particle Accelerator		H&S
20.1003	Add	Definition: Waste		B
20.1009	Amend	List of OMB approved information collections	D	D
20.2001(a)(4)	Amend	General requirements (add reference to new §20.2008).	C	C

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
20.2006(e)	Add	Transfer for disposal and manifests (add 11e.(3) and 11e.(4) byproduct material).		B
20.2008	Add	Disposal of 11e.(3) and 11e.(4) byproduct material (new section).		B
Appendix B to Part 20	Amend	Add limits for N–13 and O–15	A	A
30.3(a)	Amend	Activities requiring license (add reference to paragraph (c)).	C	C
30.3(b)(1)	Add	Activities requiring license (requirements that apply to Government agencies and Federally recognized Indian Tribes at waiver termination).		NRC
30.3(b)(2)	Add	Activities requiring license (authorization for Government agencies and Federally recognized Indian Tribes to possess and use 11e.(3) materials while applying for a license amendment).		NRC
30.3(b)(3)	Add	Activities requiring license (authorization for Government agencies and Federally recognized Indian Tribes to possess and use 11e.(3) materials while applying for a new license).		NRC
30.3(c)(1)	Add	Activities requiring license (requirements that apply to all other persons at waiver termination).		D
30.3(c)(2)	Add	Activities requiring license (authorization for all other persons to possess and use 11e.(3) materials while applying for a license amendment).		D
30.3(c)(3)	Add	Activities requiring license (authorization for all other persons to possess and use 11e.(3) materials while applying for a new license).		D
30.3(d)	Add	Activities requiring license (continuation of authority for failure to submit amendment or license).		D
30.4	Add	Definition: Accelerator-produced radioactive material		H&S
30.4	Amend	Definition: Byproduct material (add 11e.(3) & 11e.(4) material).	[A]	[H&S]
30.4	Add	Definition: Consortium		C
30.4	Add	Definition: Cyclotron		D
30.4	Add	Definition: Discrete source		H&S
30.4	Add	Definition: Particle accelerator		H&S
30.15(a)(1)(viii)	Add	Certain items containing byproduct material (add radium-226 intact timepieces and limited repairs).	B (all § 30.15)	B
30.18(b)	Amend	Exempt quantities (add 11e.(3) material)	B (all § 30.18)	B
30.20(a)	Amend	Gas and aerosol detectors containing byproduct material (grandfather 11e.(3) detectors).	B (all § 30.20)	B
30.32(g)	Amend	Application for specific licenses	C	C
30.32(j)	Add	Application for specific licenses (add noncommercial transfer of PET drugs).		B
30.34(g)	Amend	Terms and conditions of licenses (add strontium-82/rubidium-82 generators).	D	H&S
30.34(j)	Add	Terms and conditions of licenses (add noncommercial transfer of PET drugs).		B
30.71	Amend	Schedule B (add 11e.(3) material)	B	B
30.72	Amend	Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release (add radium-226).	H&S	H&S
31.4	Amend	List of OMB approved information collections	D	D
31.5(b)(1) & (c)(13)	Amend	Certain detecting, measuring, gauging, or controlling devices and/or an ionizing atmosphere (add devices with NARM approved by States).	B (all § 31.5)	B
31.8	Amend	Americium-241 in the form of calibration or reference sources (add radium-226).	D	D
31.11	Amend	General license for use of byproduct material for certain in vitro clinical or laboratory testing (add cobalt-57).	D	D
31.12	Add	General license for certain items and self-luminous products containing radium-226 (new section).		C
32.1(c)(1)	Add	Purpose and scope (requirements that apply to Government agencies and Federally recognized Indian Tribes at waiver termination and authorization to manufacture and distribute items with 11e.(3) material while applying for amendment or license).		NRC

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
32.1(c)(2)	Add	Purpose and scope (requirements that apply to all other persons at waiver termination and authorization to manufacture and distribute items with 11e.(3) material while applying for amendment or license).		D
32.57	Amend	Calibration or reference sources containing americium-241: Requirements for license to manufacture or initially transfer (add radium-226).	B	B
32.58	Amend	Same: Labeling of devices (add radium-226)	B	B
32.59	Amend	Same: Leak testing of each source (add radium-226)	B	B
32.71(b)(8) & (c)(1)	Add	Manufacture and distribution of byproduct material for certain in vitro clinical or laboratory testing under general license (add cobalt-57).	B	B
32.72(a)(2)(i), (iii), (iv), (v), & (b).	Amend	Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35 (recognize FDA and State registrations of PET facilities and pharmacist using 11e.(3) material).	B	B
32.102	Amend	Schedule C—prototype tests for calibration or reference sources containing americium-241 (add radium-226).	B	B
33.100	Amend	Schedule A (add beryllium-7, cobalt-57, radium-226, & sodium-22).	D	D
35.2	Add	Definition: Cyclotron		D
35.2	Add	Definition: Positron Emission Tomography (PET) radionuclide production facility.		H&S
35.10(a)	Add	Implementation (requirements that apply at waiver termination).		D
35.10(g)	Redesignated	Implementation		D
35.11(a)	Amend	License required (reference to § 35.11(c))	C	C
35.11(c)(1)	Add	License required (authorize medical use of 11e.(3) materials by Government agencies and Federally recognized Indian Tribes while applying for license).		NRC
35.11(c)(2)	Add	License required (authorize medical use of 11e.(3) materials by all other persons while applying for license).		D
35.13(a)(1)	Amend	License amendments (authorize medical use of 11e.(3) materials by Government agencies and Federally recognized Indian Tribes while applying for amendment).		NRC
35.13(a)(2)	Amend	License amendments (authorize medical use of 11e.(3) materials by all other licensees while applying for amendment).		D
35.13(b)(5)	Add	License amendments (grandfather physicians and pharmacists that used 11e.(3) material).	D	D
35.13(e)	Amend	License amendments (clarify amendment need)	D	D
35.14(a) and (b)(5)	Amend	Notifications (using notification to allow continued operation for certain 11e.(3) material).	D	D
35.15(f)	Amend	Exemptions regarding Type A specific licenses of broad scope (clarify the exemption).	D	D
35.57(a)(3) & (b)(3)	Add	Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized user, and nuclear pharmacist (grandfather RSO, AMP, ANP, and AU who used only 11e.(3) material).		D
35.63(b)(2)(ii) & (c)(3)	Amend	Determination of dosages of unsealed byproduct material for medical use (recognize State licenses and State requirements).	H&S	H&S
35.63(b)(2)(iii)	Add	Determination of dosages of unsealed byproduct material for medical use (recognize State licenses of PET facilities).		H&S
35.100(a) & (b)	Amend	Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required (allow use of PET radionuclides).	H&S	H&S
35.200(a) & (b)	Amend	Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required (allow use of PET radionuclides).	H&S	H&S
35.204(a)	Amend	Permissible molybdenum-99 concentrations (add strontium-82 & strontium-85).	H&S	H&S
35.204(c)	Add	Permissible molybdenum-99 concentrations (add strontium-82 & strontium-85.		D

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New
35.204(d)	Redesignated	Permissible molybdenum-99 concentrations	D	D
35.300(a) and (b)	Amend	Use of unsealed byproduct material for which a written directive is required (allow use of PET radionuclides).	H&S	H&S
35.2204	Amend	Records of molybdenum-99 concentrations (add strontium-82 & strontium-85).	D	D
50.2	Amend	Definition: Byproduct material (add 11e.(3) & 11e.(4) material).	NRC	NRC
61.2	Amend	Definition: Waste (clarify 11e.(3) & 11e.(4) material)	B	B
62.2	Amend	Definition: Low-level radioactive waste (clarify 11e.(3) & 11e.(4) material).	NRC	NRC
72.3	Amend	Definition: Byproduct material (add 11e.(3) & 11e.(4) material).	NRC	NRC
110.2	Add	Definition: Accelerator-produced radioactive material		NRC
110.2	Add	Definition: Discrete source		NRC
110.2	Add	Definition: Particle accelerator		NRC
150.3	Amend	Definition: Byproduct material (add 11e.(3) & 11e.(4) material).	A	H&S
150.3	Add	Definition: Discrete source		H&S

10 CFR Parts 170 and 171 address areas that generally are applicable only to the NRC's regulatory program; therefore, no compatibility designation is assigned.

VII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is assuming regulation of certain discrete sources of naturally occurring radioactive material and accelerator-produced radioactive material in addition to those byproduct materials already under the NRC's jurisdiction. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

The EPAct requires that the NRC use model State standards to the maximum extent practicable in developing and issuing regulations for the newly expanded definition of Byproduct material. In developing this final rule, the NRC has consulted with Agreement and non-Agreement States about their regulations. To the maximum extent practicable, the NRC has incorporated the CRCPD's SSRs into this final rule.

VIII. Environmental Assessment and Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The Commission has prepared an environmental assessment for this final rule.

Amendments to the NRC's regulations incorporate new materials into the NRC's byproduct material regulatory program and establish new program elements where needed. Before the EPAct, the regulation of NARM, other than source material, was left primarily to the individual States. Although efforts were made by several States to provide a uniform regulatory environment, particularly for accelerator-produced radioactive material, there is currently no nationwide consistency to the regulation of NARM. The amendments to the NRC's regulations will provide a uniform regulatory environment for the acquisition, possession, use, transfer, and disposal of NARM. This uniform regulatory environment has been developed in cooperation with the States, using model State standards in existence to the maximum extent practicable. Because the approach for developing the generic NRC requirements started with the existing generic requirements for accelerator-produced radioactive material that had already been developed by the States for the SSRs, little change is expected to the byproduct material regulatory programs already in place for the Agreement States. Consequently, for Agreement States, the primary foreseeable impact of the regulatory changes applicable to accelerator-produced radioactive material is that the regulations will be uniformly applied by all Agreement States. Therefore, for the regulation of accelerator-produced radioactive material by the Agreement States, these amendments to the NRC's regulations are not expected to have any adverse environmental impacts.

In non-Agreement States, these amendments to the NRC's regulations generally impose more restrictive requirements on the acquisition, possession, use, transfer, and disposal of accelerator-produced radioactive materials. In situations where the new NRC requirements are more restrictive than those already imposed by individual States' existing regulations, the result will likely be a positive impact on the environment. In situations where the NRC's requirements are less restrictive than the individual State's regulations, it is likely that the licensee will, in large part, continue with its current practices, and no substantial impact on the environment is anticipated. Therefore, it is expected that the overall environmental impacts of the regulation of accelerator-produced radioactive material in non-Agreement States will be positive.

The effects of the amendments to the NRC's regulations applicable to discrete sources of radium-226 and discrete sources of other naturally occurring radioactive material will be greater for the non-Agreement States than for the Agreement States because certain non-Agreement States do not have a regulatory program addressing this material. The imposition of regulations

on the acquisition, possession, use, transfer, and disposal of these discrete sources of naturally occurring radioactive material will provide greater assurance that these activities are performed in a manner that is expected to be less harmful to the environment than would be assured without these regulations. Therefore, the effect of the NRC's regulations applicable to discrete sources of naturally occurring radioactive material is anticipated to be beneficial to the environment, and it is expected that the overall environmental impacts will be positive.

Therefore, the determination of the environmental assessment is that there will be no significant impact to the human environment from this action.

The NRC sent a copy of the environmental assessment and the proposed rule to every State Liaison Officer and requested their comments on the environmental assessment. No significant comments were received that changed this conclusion.

IX. Paperwork Reduction Act Statement

This final rule amends information collection requirements contained in 10 CFR Parts 19, 20, 30, 31, 32, and 35 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0044, –0014, –0017, –0016, –0001, –0010, and –0120. The changes to 10 CFR Parts 33, 50, 61, 62, 72, 110, 150, 170, and 171 do not contain new or amended information collection requirements.

The burden to the public for these information collections is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV*; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0044, –0014, –0017, –0016, –0001, –0010, and –0120, Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

X. Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The regulatory analysis examines the costs and benefits of the alternatives considered by the Commission.

The regulatory analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD, and may be downloaded from the rule forum Web site at *http://ruleforum.llnl.gov*. Single copies of the regulatory analysis are available from Catherine R. Mattsen, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6264, e-mail *crm@nrc.gov*.

XI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The majority of companies that own these businesses do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Section 651(e) of the EPAct expanded the definition of Byproduct material in Section 11e. of the AEA to include any discrete source of radium-226, any material made radioactive by use of a particle accelerator, and any discrete source of naturally occurring radioactive material that would pose a similar threat to the public health and safety or the common defense and security as a discrete source of radium-226 that is extracted or converted after extraction for use in a commercial, medical, or research activity. This rulemaking amends the NRC's regulations to include this newly defined byproduct material. This amendment will potentially affect large numbers of individuals, businesses, or licensees engaged in activities involving discrete radium-226 sources or accelerator-produced radioactive material used for commercial, medical, or research activities. Many individuals, businesses, or licensees qualify as small business entities as defined by 10 CFR 2.810. However, the rule is not expected to have a significant economic impact on these individuals, businesses, or licensees because the NRC is using the existing regulatory framework to regulate these materials and is allowing sufficient time for individuals, businesses, and licensees to implement the requirements for this radioactive material. Based on the regulatory analysis, the NRC believes that the selected alternative reflected in the amendment is protective of public health and safety and is not overly burdensome to accomplish the NRC's regulatory objective. The NRC also notes that several Agreement States have imposed similar requirements on their licensees either by rule, order, or license condition.

XII. Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109, 70.76, 72.62, or 76.76) does not apply to this rule because this amendment does not involve any provisions that would impose backfits as defined in 10 CFR Chapter 1. Therefore, a backfit analysis is not required.

XIII. Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 33

Byproduct material, Criminal penalties, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 62

Administrative practice and procedure, Denial of access, Emergency access to low-level waste disposal, Low-level radioactive waste, Low-level radioactive waste treatment and disposal, Low-level waste policy amendments act of 1985, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR parts 20, 30, 31, 32, 33, 35, 50, 61, 62, 72, 110, 150, 170, and 171.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

■ 1. The authority citation for part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 2. In § 20.1003, the definition of *Byproduct material* is revised, and definitions of *Accelerator-produced radioactive material, Discrete source, Particle accelerator,* and *Waste* are added alphabetically to read as follows:

§ 20.1003 Definitions.

* * * * *

Accelerator-produced radioactive material means any material made radioactive by a particle accelerator.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition;

(3)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

Discrete source means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

* * * * *

Particle accelerator means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt. For purposes of this definition, "accelerator" is an equivalent term.

* * * * *

Waste means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the

definition of Byproduct material set forth in this section.

* * * * *

■ 3. In § 20.1009, paragraph (b) is revised to read as follows:

§ 20.1009 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§20.1003, 20.1101, 20.1202, 20.1203, 20.1204, 20.1206, 20.1208, 20.1301, 20.1302, 20.1403, 20.1404, 20.1406, 20.1501, 20.1601, 20.1703, 20.1901, 20.1904, 20.1905, 20.1906, 20.2002, 20.2004, 20.2005, 20.2006, 20.2008, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, 20.2207, 20.2301, and appendix G to this part.

* * * * *

■ 4. In § 20.2001, paragraph (a)(4) is revised to read as follows:

§ 20.2001 General requirements.

(a) * * *

(4) As authorized under §§20.2002, 20.2003, 20.2004, 20.2005, or 20.2008.

* * * * *

■ 5. In § 20.2006, paragraph (e) is added to read as follows:

§ 20.2006 Transfer for disposal and manifests.

* * * * *

(e) Any licensee shipping byproduct material as defined in paragraphs (3) and (4) of the definition of *Byproduct material* set forth in § 20.1003 intended for ultimate disposal at a land disposal facility licensed under part 61 of this chapter must document the information required on the NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with appendix G to this part.

■ 6. Section 20.2008 is added to Subpart K—Waste Disposal—to read as follows:

§ 20.2008 Disposal of certain byproduct material.

(a) Licensed material as defined in paragraphs (3) and (4) of the definition of *Byproduct material* set forth in §20.1003 may be disposed of in accordance with part 61 of this chapter, even though it is not defined as low-level radioactive waste. Therefore, any licensed byproduct material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed under part 61 of this chapter, must meet the requirements of §20.2006.

(b) A licensee may dispose of byproduct material, as defined in paragraphs (3) and (4) of the definition of *Byproduct material* set forth in § 20.1003, at a disposal facility authorized to dispose of such material in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

■ 7. In Appendix B to part 20, the List of Elements table is amended by adding Nitrogen and Oxygen in alphabetical order, and page 1 of Tables 1, 2, and 3 following the List of Elements is revised to read as follows:

Appendix B to Part 20—Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage

* * * * *

LIST OF ELEMENTS

Name	Atomic Symbol	Atomic No.
* * *	* * *	*
Nitrogen	N	7
* * *	* * *	*
Oxygen	O	8
* * *	* * *	*

* * * * *

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			Table 1 Occupational Values			Table 2 Effluent Concentration		Table 3 Releases to Sewers
			Col 1	Col 2	Col 3	Col 1	Col. 2	
			Oral Ingestion	Inhalation				
Atomic No.	Radionuclide	Class	ALI (μCi)	ALI (μCi/ml)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T_2) Submersion[1] Use above values as HT and T_2 oxidize in air and in the body to HTO						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ^{7}Be	1E+3 LLI wall	2E+2	6E-8	2E-10	-	-
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{7}Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11[2]	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	Nitrogen-13[2]	Submersion[1]	-	-	4E-6	2E-8	-	-
8	Oxygen-15[2]	Submersion[1]	-	-	4E-6	2E-8	-	-
9	Fluorine-18[2]	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5e+4 St wall	7E+4	3E-5	1E-7	-	-
			(5E+4)	-	-	-	7E-4	7E3
		W, fluorides of Be, Mg Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Nm, Tc, and Re	-	9e+4	4e-5	1e-7	-	-
		y, LANTHANUM FLUORIDE	-	8e+4	3e-5	1e-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-

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* * * * *

Footnotes

[1] "Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.

[2] These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do not include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E–7 μCi/ml for the listed DAC to account for the submersion dose prospectively, but should use individual monitoring devices or other radiation measuring instruments that measure external exposure to demonstrate compliance with the limits. (See § 20.1203.)

* * * * *

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 8. The authority citation for part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 9. Section 30.3 is revised to read as follows:

§ 30.3 Activities requiring license.

(a) Except as provided in paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section and for persons exempt as provided in this part and part 150 of this chapter, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter.

(b)(1) The requirements, including provisions that are specific to licensees, in this part and parts 19, 20, 21, and 71 of this chapter, as well as the additional requirements for specific broad scope, industrial radiography, irradiator, or well logging uses in 10 CFR parts 33, 34, 36, or 39, respectively, shall apply to Government agencies or Federally recognized Indian Tribes on November 30, 2007, when conducting activities under the authority provided by paragraphs (b)(2) and (b)(3) of this section.

(2) A specifically licensed Government agency or Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a license amendment is required to authorize the activities in paragraph (a) of this section, may continue to use these materials for uses permitted under this part until the date of the NRC's final licensing determination, provided that the licensee submits an amendment application on or before June 2, 2008.

(3) A Government agency or Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a specific license is required in paragraph (a) of this section, may continue to use such material for uses permitted under this part until the date of the NRC's final licensing determination provided that the agency or Indian Tribe submits an application for a license authorizing activities involving these materials on or before December 1, 2008.

(c)(1) The requirements, including provisions that are specific to licensees in this part and parts 19, 20, 21, and 71 of this chapter, as well as the additional requirements for specific broad scope, industrial radiography, irradiator, or well logging uses in 10 CFR parts 33, 34, 36, or 39, respectively, shall apply to all persons, other than those included in paragraph (b)(1) of this section, on August 8, 2009, or earlier as noticed by the NRC, when conducting activities under the authority provided by paragraphs (c)(2) and (c)(3) of this section.

(2) Except as provided in paragraph (b)(2) of this section, all other licensees, who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a license amendment is required to authorize the activities in paragraph (a) of this section, may continue to use these materials for uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits an amendment application within 6 months from the waiver expiration date of August 7, 2009 or within 6 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

(3) Except as provided in paragraph (b)(3) of this section, all other persons, who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a specific license is required in paragraph (a) of this section, may continue to use such material for uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits a license application within 12 months from the waiver expiration date of August 7, 2009 or within 12 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

(d) If a person or licensee is required to file an application for a license or amendment in accordance with paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section, but does not file for the license or amendment within the required time, the authority provided by paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section to receive or use the accelerator-produced radioactive material or discrete sources of radium-226 shall expire with respect to the person's or licensee's authority to receive and use such byproduct material. This authority shall not expire with respect to the responsibility of the person or licensee regarding the possession of such byproduct material, the decommissioning (including financial assurance) of facilities, or the disposal of such byproduct material.

■ 10. In § 30.4, the definition of *Byproduct material* is revised, and the definitions of *Accelerator-produced radioactive material, Consortium, Cyclotron, Discrete source*, and *Particle accelerator* are added alphabetically to read as follows:

§ 30.4 Definitions.

* * * * *

Accelerator-produced radioactive material means any material made radioactive by a particle accelerator.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

Consortium means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a Federal facility or a medical facility.

* * * * *

Cyclotron means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

* * * * *

Discrete source means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

* * * * *

Particle accelerator means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt. For purposes of this definition, accelerator is an equivalent term.

* * * * *

■ 11. In § 30.15, paragraph (a)(1)(viii) is added to read as follows:

§ 30.15 Certain items containing byproduct material.

(a) * * *

(1) * * *

(viii) 0.037 megabecquerel (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

* * * * *

■ 12. In § 30.18, paragraph (b) is revised to read as follows:

§ 30.18 Exempt quantities.

* * * * *

(b) Any person, who possesses byproduct material received or acquired before September 25, 1971, under the general license then provided in § 31.4 of this chapter or similar general license of a State, is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 30 through 34, 36 and 39 of this chapter to the extent that this person possesses, uses, transfers, or owns byproduct material.

* * * * *

■ 13. In § 30.20, paragraph (a) is revised to read as follows:

§ 30.20 Gas and aerosol detectors containing byproduct material.

(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 19, 20, and 30 through 36, and 39 of this chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under § 32.26 of this chapter, which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by a State under comparable provisions to § 32.26 of this chapter authorizing distribution to persons exempt from regulatory requirements.

* * * * *

■ 14. In § 30.32, paragraphs (g)(1) and (g)(2) are revised and paragraphs (g)(3) and (j) are added to read as follows:

§ 30.32 Application for specific licenses.

* * * * *

(g) * * *

(1) Identify the source or device by manufacturer and model number as registered with the Commission under § 32.210 of this chapter, with an Agreement State, or for a source or a device containing radium-226 or accelerator-produced radioactive material with a State under provisions comparable to § 32.210 of this chapter; or

(2) Contain the information identified in § 32.210(c) of this chapter; or

(3) For sources or devices containing naturally occurring or accelerator-produced radioactive material manufactured prior to November 30, 2007 that are not registered with the Commission under § 32.210 of this chapter or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in § 32.210(c) of this chapter, the applicant must provide:

(i) All available information identified in § 32.210(c) of this chapter concerning the source, and, if applicable, the device; and

(ii) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

* * * * *

(j) An application from a medical facility, educational institution, or Federal facility to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to licensees in its consortium authorized for medical use under part 35 of this chapter or equivalent Agreement State requirements shall include:

(1) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under part 30 of this chapter or Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(2) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in § 32.72(a)(2) of this chapter.

(3) Identification of individual(s) authorized to prepare the PET radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in § 32.72(b)(2) of this chapter.

(4) Information identified in § 32.72(a)(3) of this chapter on the PET drugs to be noncommercially transferred to members of its consortium.

■ 15. In § 30.34, paragraph (g) is revised and paragraph (j) is added to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(g) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with § 35.204 of this chapter. The licensee shall record the results of each test and retain each record for 3 years after the record is made.

* * * * *

(j)(1) Authorization under § 30.32(j) to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

(2) Each licensee authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

(i) Satisfy the labeling requirements in § 32.72(a)(4) of this chapter for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.

(ii) Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in § 32.72(c) of this chapter.

(3) A licensee that is a pharmacy authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radioactive drugs shall be:

(i) an authorized nuclear pharmacist that meets the requirements in § 32.72(b)(2) of this chapter, or

(ii) an individual under the supervision of an authorized nuclear pharmacist as specified in § 35.27 of this chapter.

(4) A pharmacy, authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of § 32.72(b)(5) of this chapter.

■ 16. Section 30.71 is amended by adding Cesium 129 (Cs 129), Cobalt 57 (Co 57), Gallium 67 (Ga 67), Germanium 68 (Ge 68), Gold 195 (Au 195), Indium 111 (In 111), Iodine 123 (I 123), Iron 52 (Fe 52), Potassium 43 (K 43), Rubidium 81 (Rb 81), Sodium 22 (Na 22), Yttrium 87 (Y 87), and Yttrium 88 (Y 88) in alphabetical order by element as follows:

§ 30.71 Schedule B.

Byproduct material	Microcuries
* * * * *	
Cesium 129 (Cs 129)	100
* * * * *	
Cobalt 57 (Co 57)	100
* * * * *	
Gallium 67 (Ga 67)	100
* * * * *	
Germanium 68 (Ge 68)	10
* * * * *	
Gold 195 (Au 195)	10
* * * * *	
Indium 111 (In 111)	100
* * * * *	
Iodine 123 (I 123)	100
* * * * *	
Iron 52 (Fe 52)	10
* * * * *	
Potassium 43 (K 43)	10
* * * * *	
Rubidium 81 (Rb 81)	10
* * * * *	
Sodium 22 (Na 22)	10
* * * * *	
Yttrium 87 (Y 87)	10
Yttrium 88 (Y 88)	10
* * * * *	

■ 17. Section 30.72 is amended by adding radium-226 in alphabetical order to read as follows:

§ 30.72 Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release.

Radioactive material [1]	Release fraction	Quantity (curies)
* * * * *		
Radium-226	0.001	100
* * * * *		

[1] For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Schedule C exceeds one.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

■ 18. The authority citation for part 31 is revised to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), P. Law 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 19. In § 31.4, paragraph (b) is revised to read as follows:

§ 31.4 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in § § 31.5, 31.8, 31.11, and 31.12.

* * * * *

■ 20. In § 31.5, paragraphs (b)(1)(i), (b)(1)(ii), and (c)(13)(i) are revised and paragraph (b)(1)(iii) is added to read as follows:

§ 31.5 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.[2]

* * * * *

(b)(1) * * *

(i) A specific license issued under § 32.51 of this chapter; or

(ii) An equivalent specific license issued by an Agreement State; or

[2] Persons possessing byproduct material in devices under a general license in § 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of § 31.5 in effect on January 14, 1975.

(iii) An equivalent specific license issued by a State with provisions comparable to § 32.51 of this chapter.

* * * * *

(c) * * *

(13)(i) Shall register, in accordance with paragraphs (c)(13)(ii) and (iii) of this section, devices containing at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicurie) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, 3.7 megabecquerels (0.1 millicurie) of radium-226, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under paragraph (c)(13)(iii)(D) of this section, represents a separate general licensee and requires a separate registration and fee.

* * * * *

■ 21. Section 31.8 is revised to read as follows:

§ 31.8 Americium-241 and radium-226 in the form of calibration or reference sources.

(a) A general license is issued to those persons listed in this section to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of paragraphs (b) and (c) of this section, americium-241 or radium-226 in the form of calibration or reference sources:

(1) Any person in a non-Agreement State who holds a specific license issued under this chapter which authorizes receipt, possession, use, and transfer of byproduct material, source material, or special nuclear material; and

(2) Any Government agency, as defined in § 30.4 of this chapter, which holds a specific license issued under this chapter which authorizes it to receive, possess, use, and transfer byproduct material, source material, or special nuclear material.

(b) The general license in paragraph (a) of this section applies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued under § 32.57 of this chapter or in accordance with the specifications contained in a specific license issued to the manufacturer by an Agreement State which authorizes manufacture of the sources for distribution to persons generally licensed by the Agreement State, or in accordance with a specific license issued by a State with comparable provisions to § 32.57.

(c) The general license in paragraph (a) of this section is subject to the provisions of § § 30.14(d), 30.34 (a) to (e), and 30.50 to 30.63 of this chapter, and to the provisions of parts 19, 20, and 21, of this chapter. In addition, persons who own, receive, acquire, possess, use, and transfer one or more calibration or reference sources under this general license:

(1) Shall not possess at any one time, at any one location of storage or use, more than 0.185 megabecquerel (5 microcuries) of americium-241 or 0.185 megabecquerel (5 microcuries) of radium-226 in such sources;

(2) Shall not receive, possess, use, or transfer a source unless the source, or the storage container, bears a label which includes the following statement or a substantially similar statement which contains the information called for in the following statement: [1]

The receipt, possession, use, and transfer of this source, Model XX, Serial No. XX, are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS AMERICIUM–241 [or RADIUM–226, as appropriate]. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____

(Name of manufacturer or initial transferor)

(3) Shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license issued under this chapter or by an Agreement State to receive the source.

(4) Shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241 or radium-226 which might otherwise escape during storage.

(5) Shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(d) This general license does not authorize the manufacture or import of calibration or reference sources containing americium-241 or radium-226.

(e) This general license does not authorize the export of calibration or reference sources containing americium-241 or radium-226.

■ 22. In § 31.11, paragraph (a)(8) is added, and paragraphs (c)(1) and (d)(1) are revised to read as follows:

§ 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

(a) * * *

(8) Cobalt-57, in units not exceeding 0.37 megabecquerel (10 microcuries) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

* * * * *

(c) * * *

(1) The general licensee shall not possess at any one time, under the general license in paragraph (a) of this section, at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 7.4 megabecquerels (200 microcuries).

* * * * *

(d) * * *

(1) Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued under the provisions of § 32.71 of this chapter or in accordance with the provisions of a specific license issued by an Agreement State, or before November 30, 2007, and the provisions of a specific license issued by a State with comparable provisions to § 32.71 that authorize manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, iron-59, cobalt-57, or Mock Iodine-125 for distribution to persons generally licensed by the Agreement State or the State with comparable provisions to § 32.71.

* * * * *

§ § 31.12, 31.13, and 31.14 [Redesignated]

■ 23. Sections 31.12, 31.13, and 31.14 are redesignated as § 31.21, § 31.22, and § 31.23, respectively, § § 31.13 through 31.20 are reserved, and a new § 31.12 is added to read as follows:

§ 31.12 General license for certain items and self-luminous products containing radium-226.

(a) A general license is hereby issued to any person to acquire, receive, possess, use, or transfer, in accordance with the provisions of paragraphs (b), (c), and (d) of this section, radium-226 contained in the following products

[1] Sources generally licensed under this section before January 19, 1975, may bear labels authorized by the regulations in effect on January 1, 1975. Sources containing radium-226 generally licensed under this section and manufactured before November 30, 2007 shall be labeled in accordance with the applicable State regulations at the time of manufacture or import.

manufactured prior to November 30, 2007.

(1) Antiquities originally intended for use by the general public. For the purposes of this paragraph, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.

(2) Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.

(3) Luminous items installed in air, marine, or land vehicles.

(4) All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.

(5) Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this paragraph, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.

(b) Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in paragraph (a) of this section are exempt from the provisions of 10 CFR parts 19, 20, and 21, and § 30.50 and 30.51 of this chapter, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this chapter.

(c) Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in paragraph (a) of this section:

(1) Shall notify the NRC should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Director of the Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 within 30 days.

(2) Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to § 20.2008 of this chapter or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the NRC.

(3) Shall not export products containing radium-226 except in accordance with part 110 of this chapter.

(4) Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under part 30 of this chapter, or equivalent regulations of an Agreement State, or as otherwise approved by the NRC.

(5) Shall respond to written requests from the NRC to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Director of the Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, a written justification for the request.

(d) The general license in paragraph (a) of this section does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

■ 24. The authority citation for part 32 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 25. In § 32.1, paragraph (c) is added to read as follows:

§ 32.1 Purpose and scope.

* * * * *

(c)(1) The requirements in this part, including provisions that are specific to licensees, shall apply to Government agencies and Federally recognized Indian Tribes with respect to accelerator-produced radioactive material or discrete sources of radium-226 on November 30, 2007 except that the agency or tribe may continue to manufacture or initially transfer items containing accelerator-produced radioactive material or discrete sources of radium-226 for sale or distribution to persons exempted from the licensing requirements of part 30 of this chapter, and to persons generally licensed under part 31 of this chapter, and radioactive drugs and sources and devices to medical use licensees, until the date of the NRC's final licensing determination, provided that the agency or tribe submits a new license application for these activities on or before December 1, 2008 or an amendment application for these activities on or before June 2, 2008.

(2) The requirements in this part, including provisions that are specific to licensees, shall apply to all persons other than those included in paragraph (c)(1) of this section with respect to accelerator-produced radioactive material or discrete sources of radium-226 on August 8, 2009, or earlier as noticed by the NRC, except that these persons may continue to manufacture or initially transfer items containing accelerator-produced radioactive material or discrete sources of radium-226 for sale or distribution to persons exempted from the licensing requirements of part 30 of this chapter, and to persons generally licensed under part 31 of this chapter, and to sell or manufacture radioactive drugs and sources and devices to medical use licensees until the date of the NRC's final licensing determination, provided that the person submits a license application within 12 months from the waiver expiration date of August 7, 2009 or within 12 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever is earlier; or that the person submits an amendment request within 6 months from the waiver expiration date of August 7, 2009 or within 6 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

■ 26. In § 32.57, the heading and the introductory text are revised to read as follows:

§ 32.57 Calibration or reference sources containing americium-241 or radium-226: Requirements for license to manufacture or initially transfer.

An application for a specific license to manufacture or initially transfer calibration or reference sources containing americium-241 or radium-226, for distribution to persons generally licensed under § 31.8 of this chapter, will be approved if:

* * * * *

■ 27. Section 32.58 is revised to read as follows:

§ 32.58 Same: Labeling of devices.

Each person licensed under § 32.57 shall affix to each source, or storage container for the source, a label which shall contain sufficient information relative to safe use and storage of the source and shall include the following statement or a substantially similar statement which contains the information called for in the following statement: [1]

The receipt, possession, use, and transfer of this source, Model , Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION-RADIOACTIVE MATERIAL–THIS SOURCE CONTAINS AMERICIUM-241 (or RADIUM-226). DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE

(Name of manufacturer or initial transferor)

■ 28. Section 32.59 is revised to read as follows:

§ 32.59 Same: Leak testing of each source.

Each person licensed under § 32.57 shall perform a dry wipe test upon each source containing more than 3.7 kilobecquerels (0.1 microcurie) of americium-241 or radium-226 before transferring the source to a general licensee under § 31.8 of this chapter. This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the paper shall be measured by using radiation detection instrumentation capable of detecting 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226. If this test discloses more than 0.185 kilobecquerel (0.005 microcurie) of radioactive material, the source shall be deemed to be leaking or losing americium-241 or radium-226 and shall not be transferred to a general licensee under § 31.8 of this chapter or equivalent regulations of an Agreement State.

■ 29. In § 32.71, paragraph (b)(8) is added, and paragraph (c)(1) is revised to read as follows:

§ 32.71 Manufacture and distribution of byproduct material for certain in vitro clinical or laboratory testing under general license.

* * * * *

(b) * * *

(8) Cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries) each.

(c) * * *

(1) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel (10 microcuries) of iodine-131, iodine-125, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries); and

* * * * *

■ 30. In § 32.72, paragraphs (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (b)(2)(ii), (b)(4), and (b)(5) are revised, and a new paragraph (a)(2)(v) is added to read as follows:

§ 32.72 Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35.

(a) * * *

(2) * * *

(i) Registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

* * * * *

(iii) Licensed as a pharmacy by a State Board of Pharmacy;

(iv) Operating as a nuclear pharmacy within a Federal medical institution; or

(v) A Positron Emission Tomography (PET) drug production facility registered with a State agency.

* * * * *

(b) * * *

(2) * * *

(ii) This individual meets the requirements specified in § 35.55(b) and 35.59 of this chapter, and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

* * * * *

(4) May designate a pharmacist (as defined in § 35.2 of this chapter) as an authorized nuclear pharmacist if:

(i) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material, and

(ii) The individual practiced at a pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC.

(5) Shall provide to the Commission:

(i) A copy of each individual's certification by a specialty board whose certification process has been recognized by the Commission or an Agreement State as specified in § 35.55(a) of this chapter with the written attestation signed by a preceptor as required by § 35.55(b)(2) of this chapter; or

(ii) The Commission or Agreement State license, or

(iii) Commission master materials licensee permit, or

(iv) The permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist, or

(v) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(vi) A copy of the State pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, under paragraphs (b)(2)(i) and (b)(2)(iii) of this section, the individual to work as an authorized nuclear pharmacist.

* * * * *

■ 31. In § 32.102, the heading and the introductory paragraph are revised to read as follows:

§ 32.102 Schedule C—prototype tests for calibration or reference sources containing americium-241 or radium-226.

An applicant for a license under § 32.57 shall, for any type of source which is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226, conduct prototype tests, in the order listed, on each of five prototypes of the source, which contains more than 0.185

[1] Sources licensed under § 32.57 before January 19, 1975, may bear labels authorized by the regulations in effect on January 1, 1975.

kilobecquerel (0.005 microcurie) of americium-241 or radium-226, as follows:

* * * * *

PART 33—SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

■ 32. The authority citation for part 33 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 33. Section 33.100 is amended by adding Beryllium-7, Cobalt-57, Radium-226, and Sodium-22 in alphabetical order to read as follows:

§ 33.100 Schedule A.

Byproduct material	Col. I curies	Col. II curies
* * * * * * *		
Beryllium-7	10	0.1
* * * * * * *		
Cobalt-57	10	0.1
* * * * * * *		
Radium-226	0.01	0.0001
* * * * * * *		
Sodium-22	0.1	0.001

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

■ 34. The authority citation for part 35 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 35. In § 35.2, new definitions for *Cyclotron* and *Positron Emission Tomography (PET) radionuclide production facility* are added alphabetically to read as follows:

§ 35.2 Definitions.

* * * * *

Cyclotron means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

* * * * *

Positron Emission Tomography (PET) radionuclide production facility is defined as a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

* * * * *

■ 36. In § 35.10, paragraph (a) is added to read as follows:

§ 35.10 Implementation.

(a) A Government agency or a Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a specific medical use license is required by the Atomic Energy Act of 1954, as amended, must comply with the requirements of this part, including provisions that are specific to licensees, on November 30, 2007. All other persons who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a specific medical use license is required, must comply with the requirements of this part, including provisions that are specific to licensees, on August 8, 2009, or earlier as noticed by the NRC.

* * * * *

■ 37. In § 35.11, paragraph (a) is revised, and paragraph (c) is added to read as follows:

§ 35.11 License required.

(a) A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer byproduct material for medical use only in accordance with a specific license issued by the Commission or an Agreement State, or as allowed in paragraph (b) or (c) of this section.

* * * * *

(c)(1) A Government agency or a Federally recognized Indian Tribe, that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a specific medical use license is required in paragraph (a) of this section, may continue to use such materials for medical uses until the date of the NRC's final licensing determination, provided that the person submits a medical use license application on or before December 1, 2008.

(2) Except as provided in paragraph (c)(1) of this section, all other persons, who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a specific medical use license is required in paragraph (a) of this section, may continue to use this type of material for medical uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits a medical use license application within 12 months from the waiver expiration date of August 7, 2009 or within 12 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

■ 38. In § 35.13, paragraphs (a) and (e) are revised, and paragraph (b)(5) is added to read as follows:

§ 35.13 License amendments.

* * * * *

(a) Before it receives, prepares, or uses byproduct material for a type of use that is permitted under this part, but is not authorized on the licensee's current license issued under this part; except that—

(1) A Government agency or a Federally recognized Indian Tribe licensee who possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 may continue to use such material for medical uses permitted under this part until the date of the NRC's final licensing determination, provided that

the licensee submits an amendment application on or before June 2, 2008.

(2) Except as provided in paragraph (a)(1) of this section, all other licensees who possess and use accelerator-produced radioactive material or discrete sources of radium-226 may continue to use those materials for medical uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits a medical use license amendment request within 6 months from the waiver expiration date of August 7, 2009 or within 6 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

(b) * * *

(5) A physician, podiatrist, or dentist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or a nuclear pharmacist who used only accelerator-produced radioactive materials in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, and for only those materials and uses performed before these dates.

* * * * *

(e) Before it adds to or changes the areas of use identified in the application or on the license, including areas used in accordance with either § 35.100 or § 35.200 if the change includes addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area. Other areas of use where byproduct material is used only in accordance with either § 35.100 or § 35.200 are exempt;

* * * * *

■ 39. In § 35.14, the introductory text of paragraph (a) and paragraph (b)(5) are revised to read as follows:

§ 35.14 Notifications.

(a) A licensee shall provide the Commission a copy of the board certification and the written attestation(s), signed by a preceptor, the Commission or Agreement State license, the permit issued by a Commission master material licensee, the permit issued by a Commission or Agreement State licensee of broad scope, the permit issued by a Commission master material license broad scope permittee, or documentation that only accelerator-produced radioactive materials, discrete sources of radium-226, or both, were used for medical use or in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, and for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, or an authorized medical physicist, under § 35.13(b). For individuals permitted to work under § 35.13(b)(4), within the same 30-day time frame, the licensee shall also provide, as appropriate, verification of completion of;

* * * * *

(b) * * *

(5) The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with either § 35.100 or § 35.200 if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area.

* * * * *

■ 40. In § 35.15, paragraph (f) is revised to read as follows:

§ 35.15 Exemptions regarding Type A specific licenses of broad scope.

* * * * *

(f) The provisions of § 35.14(b)(5).

* * * * *

■ 41. In § 35.57, paragraphs (a)(3) and (b)(3) are added to read as follows:

§ 35.57 Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist.

(a) * * *

(3) A Radiation Safety Officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of § 35.50, § 35.51 or § 35.55, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this chapter.

(b) * * *

(3) Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of subparts D through H of this part when performing the same medical uses. A physician, dentist, or podiatrist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this chapter.

■ 42. In § 35.63, paragraphs (b)(2)(ii) and (c)(3) are revised, and paragraph (b)(2)(iii) is added to read as follows:

§ 35.63 Determination of dosages of unsealed byproduct material for medical use.

* * * * *

(b) * * *

(2) * * *

(ii) An NRC or Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

(iii) A PET radioactive drug producer licensed under § 30.32(j) of this chapter or equivalent Agreement State requirements.

(c) * * *

(3) Combination of volumetric measurements and mathematical calculations, based on the measurement made by:

(i) A manufacturer or preparer licensed under § 32.72 of this chapter or equivalent Agreement State requirements; or

(ii) A PET radioactive drug producer licensed under § 30.32(j) of this chapter or equivalent Agreement State requirements.

* * * * *

■ 43. In § 35.100, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 35.100 Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required.

* * * * *

(a) Obtained from:

(1) A manufacturer or preparer licensed under § 32.72 of this chapter or equivalent Agreement State requirements; or

(2) A PET radioactive drug producer licensed under § 30.32(j) of this chapter or equivalent Agreement State requirements; or

(b) Excluding production of PET radionuclides, prepared by:

* * * * *

■ 44. In § 35.200, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 35.200 Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required.

* * * * *

(a) Obtained from:

(1) A manufacturer or preparer licensed under § 32.72 of this chapter or equivalent Agreement State requirements; or

(2) A PET radioactive drug producer licensed under § 30.32(j) of this chapter or equivalent Agreement State requirements; or

(b) Excluding production of PET radionuclides, prepared by:

* * * * *

■ 45. In § 35.204, the heading and paragraph (a) are revised, paragraph (c) is redesignated as (d) and revised, and a new paragraph (c) is added to read as follows:

§ 35.204 Permissible molybdenum-99, strontium-82, and strontium-85 concentrations.

(a) A licensee may not administer to humans a radiopharmaceutical that contains:

(1) More than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m); or

(2) More than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).

* * * * *

(c) A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with paragraph (a) of this section.

(d) If a licensee is required to measure the molybdenum-99 concentration or strontium-82 and strontium-85 concentrations, the licensee shall retain a record of each measurement in accordance with § 35.2204.

■ 46. In § 35.300, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 35.300 Use of unsealed byproduct material for which a written directive is required.

* * * * *

(a) Obtained from:

(1) A manufacturer or preparer licensed under § 32.72 of this chapter or equivalent Agreement State requirements; or

(2) A PET radioactive drug producer licensed under § 30.32(j) of this chapter or equivalent Agreement State requirements; or

(b) Excluding production of PET radionuclides, prepared by:

■ 47. Section 35.2204 is revised to read as follows:

§ 35.2204 Records of molybdenum-99, strontium-82, and strontium-85 concentrations.

A licensee shall maintain a record of the molybdenum-99 concentration or strontium-82 and strontium-85 concentration tests required by § 35.204(b) and (c) for 3 years. The record must include:

(a) For each measured elution of technetium-99m, the ratio of the measures expressed as kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (or microcuries of molybdenum per millicurie of technetium), the time and date of the measurement, and the name of the individual who made the measurement; or

(b) For each measured elution of rubidium-82, the ratio of the measures expressed as kilobecquerel of strontium-82 per megabecquerel of rubidium-82 (or microcuries of strontium-82 per millicurie of rubidium), kilobecquerel of strontium-85 per megabecquerel of rubidium-82 (or microcuries of strontium-85 per millicurie of rubidium), the time and date of the measurement, and the name of the individual who made the measurement.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 48. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 49. In § 50.2, the definition of *Byproduct material* is revised to read as follows:

§ 50.2 Definitions.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

■ 50. The authority citation for part 61 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, st2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 51. In § 61.2, the definition for *Waste* is revised to read as follows:

§ 61.2 Definitions.

* * * * *

Waste means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct material* set forth in § 20.1003 of this chapter.

PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

■ 52. The authority citation for part 62 is revised to read as follows:

Authority: Secs. 81, 161, as amended, 68 Stat. 935, 948, 950, 951, as amended (42 U.S.C. 211, 2201; secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 3, 4, 5, 6, 99 Stat. 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857 (42 U.S.C. 2021c, 2021d, 2021e, 2021f; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 53. In § 62.2, the definition for *Low-level radioactive waste (LLW)* is revised to read as follows:

§ 62.2 Definitions.

* * * * *

Low-level radioactive waste (LLW) means radioactive material that—

(1) Is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct Material* set forth in § 20.1003 of this chapter); and

(2) The NRC, consistent with existing law and in accordance with paragraph (1) of this definition, classifies as low-level radioactive waste.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH–LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 54. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 55. In § 72.3, the definition for *Byproduct material* is revised to read as follows:

§ 72.3 Definitions.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 56. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841; sec 5, Pub. L. 101–575, 104 Stat 2835 (42 U.S.C.2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005; Pub. L. 109–58, 119 Stat. 594 (2005).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42 (a)(9) also

issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 *et seq.*).

■ 57. In § 110.2, definitions of *Accelerator-produced radioactive material, Discrete source*, and *Particle accelerator* are added alphabetically to read as follows:

§ 110.2 Definitions.

* * * * *

Accelerator-produced radioactive material means any material made radioactive by a particle accelerator.

* * * * *

Discrete source means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

* * * * *

Particle accelerator means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt. For purposes of this definition, "accelerator" is an equivalent term.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 58. The authority citation for part 150 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

■ 59. In § 150.3, the definition of *Byproduct material* is revised, and a definition of *Discrete source* is added alphabetically to read as follows:

§ 150.3 Definitions.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition; (3)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

Discrete source means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 60. The authority citation for part 170 is revised to read as follows:

Authority: Sec. 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S. C. 901, 902); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 623, Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w)); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021(b), 2111).

■ 61. In § 170.3, the definition of *Byproduct material* is revised to read as follows:

§ 170.3 Definitions.

* * * * *

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

■ 62. In § 170.31, in the table, "Schedule of Materials Fees," paragraph 3.B. is revised, and new categories 3.R. and 3.S. and corresponding fees are added to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

Category of materials licenses and type of fees [1]	Fee [2] [3]
* * * * * * *	
3. Byproduct material:	
* * * * * * *	
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. This category also includes licenses for repair, assembly, and disassembly of products containing radium-226.	
Application	$4,600
* * * * * * *	
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[6]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified.	
Application	590
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a) (4), or (5).	
Application	1,400
S. Licenses for production of accelerator-produced radionuclides.	
Application	8,000
* * * * * * *	

[1] Types of fees—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession only licenses; issuance of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) Application and registration fees. Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1.C. only.

(b) Licensing fees. Fees for reviews of applications for new licenses and for renewals and amendments to existing licenses, for preapplication consultations and for reviews of other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) Amendment fees. Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category will apply.

(d) Inspection fees. Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) Generally licensed device registrations under 10 CFR 31.5. Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect at the time the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 70.20.

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[6] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

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PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 63. The authority citation for part 171 is revised to read as follows:

Authority: Sec. 7601, Pub. L. 99-272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330 as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214); and as amended by Title IV, Pub. L. 109–103, 119 Stat. 2283 (42 U.S.C. 2214; sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021(b), 2111).

■ 64. In § 171.5, the definition of *Byproduct material* is revised to read as follows:

§ 171.5 Definitions.

* * * * *

Byproduct material means–

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium–226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium–226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

* * * * *

■ 65. In § 171.16, paragraph (d), in the table, Schedule of Materials Annual Fees and Fees for Government Agencies Licensed by the NRC, paragraph 3.B. is revised, and new categories 3.R. and 3.S. and corresponding fees are added to read as follows:

§ 171.16 Annual Fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY THE NRC

Category of materials licenses	Annual fees[1 2 3]
* * * * * * *	
3. Byproduct material:	
* * * * * * *	
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. This category also includes licenses for repair, assembly, and disassembly of products containing radium–226	$8,400
* * * * * * *	
R. Possession of items or products containing radium–226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section:[14]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified	2,100
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5)	2,700
S. Licenses for production of accelerator-produced radionuclides	10,800
* * * * * * *	

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current fiscal year. However, the annual fee is waived for those materials licensees and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2004, and permanently ceased licensed activities entirely by September 30, 2004. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession only license during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1A(1) are not subject to the annual fees for Category 1.C. and 1.D. for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each fiscal year, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

* * * * * * * *

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

* * * * *

Dated at Rockville, Maryland, this 13th day of September 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 07–4735 Filed 9–28–07; 8:45 am]

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Federal Register

Monday,
October 1, 2007

Part III

Department of Housing and Urban Development

Final Fair Market Rents for Fiscal Year 2008 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5152–N–02]

Final Fair Market Rents for Fiscal Year 2008 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fair Market Rents (FMRs) for Fiscal Year (FY) 2008.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. The primary uses of FMRs are to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), and to serve as a rent ceiling in the HOME rental assistance program. Today's notice provides final FY2008 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2008. The FY2008 FMRs are based on 2000 Census data updated with more current survey data. For the first time, HUD is using data from the Census Bureau's American Community Survey (ACS). HUD is largely replacing the accumulated 2001-through-2005 FMR update factors from various sources with data from ACS's first full implementation year, 2005. HUD uses ACS data in different ways according to how many two-bedroom, standard-quality and recent-mover sample cases are available in the FMR area or in its Core-Based Statistical Area (CBSA), as described in detail later in this notice. Random digit dialing (RDD) surveys, as well as some limited private surveys, performed between 2001 and 2005 may also be used under certain conditions. Revised 2005 FMRs based on 2000 Census and 2005 ACS data have been updated with Consumer Price Index (CPI) data through the end of 2006 and then trended to April 2008, the midpoint of FY2008. FY2008 FMRs are the first to be able to take advantage of the full-implementation ACS, a major new Census survey that is being conducted annually. The ACS will replace the Decennial Census "long-form" sample survey that is the source of Decennial Census rent information. The ACS will permit more accurate FMR estimates each year than were possible using the Decennial Census trending techniques of previous FMR estimates.

DATES: *Effective Date:* The FMRs published in this notice are effective on October 1, 2007.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at (800) 245–2691 or access the information at the following link on the HUD Web site: *http://www.huduser.org/datasets/fmr.html*. FMRs are listed at the 40th or 50th percentile in Schedule B. An asterisk before the FMR area name identifies a 50th percentile area. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY2008 FMR documentation system at *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr08*.

Any questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or for further methodological explanations, please contact Marie L. Lihn or Lynn A. Rodgers, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone number (202) 708–0590. Questions about disaster-related FMR exceptions should be referred to the respective local HUD office. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the Housing Choice Voucher program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (nonluxury) nature with suitable amenities. In addition, all rents subsidized under the Housing Choice Voucher program must meet reasonable rent standards. The interim rule published on October 2, 2000 (65 FR 58870), established 50th percentile FMRs for certain areas.

Electronic Data Availability: This **Federal Register** notice is available electronically from the HUD Web site at *http://www.hudclips.org*. **Federal Register** notices are also available electronically from the U.S. Government Printing Office Web site, *http://www.gpoaccess.gov/fr/index.html*. Complete documentation of the methodology and data used to compute each area's Final FY2008 FMRs is available at *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr08*.

II. Procedures for the Development of FMRs

Section 8(c) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c) states in part, as follows:

> Proposed fair market rentals for an area shall be published in the **Federal Register** with reasonable time for public comment and shall become effective upon the date of publication in final form in the **Federal Register**. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes—based on the most recent available data trended so the rentals will be current for the year to which they apply—of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in this section.

The Department's regulations at 24 CFR part 888 provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment period of at least 30 days, analyze the comments, and publish final FMRs (see 24 CFR 888.115).

In addition, HUD's regulations at 24 CFR 888.113 set out procedures for HUD to assess whether areas are eligible for FMRs at the 50th percentile. For FY2008, no new areas became eligible for 50th percentile rents. Final FY2008 FMRs are published on or before October 1, 2007, as required by section 8(c)(1) of the USHA.

III. Proposed FY2008 FMRs

On July 12, 2007, at 72 FR 38398, HUD published proposed FY2008 FMRs. As noted in the preamble to the proposed FMRs, the FMRs for FY2008 reflect the use of the 2005 ACS data for metropolitan areas. For all areas, the update of the FMRs from the 2000 Census base rent to 2005 has largely been replaced by using ACS update

factors. There are some areas where RDDs conducted between 2001 and 2005 are still being used, and some areas where the 2005 ACS data provides a new benchmark rent. In addition, the FY2008 FMRs include all changes made to metropolitan area definitions made by the Office of Management and Budget (OMB), as of December 2006.

During the comment period, which ended August 13, 2007, HUD received 30 public comments on the proposed FY2008 FMRs. Most of the comments received lacked the data needed to support FMR changes. The comments received are discussed in more detail later in this notice.

IV. FMR Methodology

The FY2008 FMRs are based on current OMB metropolitan area definitions that were first used in the FY2006 FMRs. The changes OMB made to the Metropolitan Area Definitions in December 2006 have been incorporated. This means there are two new, one-county metropolitan statistical areas (MSAs), and a few areas where MSA name changes add or delete a primary city name. These definitions have the advantages that they are based on more current (2000 Census) data, use a more relevant commuting interchange standard, and generally provide a better measure of current housing market relationships. HUD had three objectives in defining FMR areas for FY2006: (1) To incorporate new OMB metropolitan area definitions so that the FMR estimation system can employ new data released according to those definitions, (2) to better reflect current housing markets, and (3) to minimize the number of large changes in FMRs due to use of the new OMB definitions. These objectives continue to apply to the FY2008 FMRs, and area definitions were developed to achieve these objectives, as follows:

- FMR Census Base Rents and Median Family Incomes were calculated for each of the new OMB metropolitan areas using 2000 Census data.
- Subparts of any of the new areas that had separate FMRs under the old OMB definitions, and that had sufficiently large 2000 Census counts of recent-mover renter households in standard-quality units, were identified, and 2000 Census Base Rents and Median Family Incomes for these subparts were calculated. Only the subparts within the new OMB metropolitan area were included in these calculations (e.g., counties that had been excluded from the new OMB metropolitan areas were not included).
- Metropolitan subparts of new areas that had previously had separate FMRs were assigned their own FMRs if their 2000 Census Base Rents differed by more than 5 percent from the new OMB area 2000 Census Base Rent, or if their 2000 Census Median Family Income differed by more than 5 percent from the new OMB area 2000 Census Median Family Income.
- Former metropolitan counties removed from metropolitan areas get their own FMRs.

At HUD's request, the Census Bureau prepared a special publicly releasable census file that permits almost exact replication of HUD's 2000 Base Rent calculations, except for areas with few rental units. This data set is located on HUD's HUD USER Web site at: *http://www.huduser.org/datasets/fmr/CensusRentData/.*

A. Data Sources—2000 Census and 2005 American Community Survey

FY 2008 FMRs are based on 2000 Census data updated with more current survey data. For the first time, HUD is using data from the Census Bureau's ACS; the ACS data are from 2005, the full survey's first implementation year. While the Census Bureau intends for the ACS to replace the Decennial Census sample "long form" for collecting detailed socio-economic data, the ACS has several important differences from the decennial long form. These include:

- The ACS is conducted on a continuous "rolling" basis throughout the year. As a result, survey responses do not correspond to a particular date, whereas the long form responses are as of the census date of April 1. This has implications for the "as-of" date assumed for ACS-based rents. The "as of" date for ACS-based rents is set at June 30, 2005.
- The ACS has about one-fifth the sample size of the decennial long form, which surveyed approximately one out of every six households. This means that an adequate sample size for one-year ACS data will be available only for very large-population geographic areas, and that data for smaller areas will be accumulated over 3 or 5 years to form the basis of decennial-long-form equivalent estimates.

In the FY 2008 FMRs, HUD is largely replacing the accumulated 2001-through-2005 FMR update factors from various sources with 2005 ACS data (RDDs performed between 2001 and 2005 will be used under certain conditions described below). HUD uses ACS data in different ways according to how many two-bedroom, standard-quality and recent-mover sample cases are available in the FMR area or the CBSA. FMR areas are classified into four ACS data-availability categories:

ACS–1. FMR Areas that have at least 200 sample cases of two-bedroom, standard-quality rents. ACS–1 areas may be entire MSAs, sub-areas that are assigned the CBSA base rents, other sub-areas, or large nonmetropolitan counties.

ACS–2. FMR Areas that are sub-areas of CBSAs where the sub-area is not assigned the CBSA base rent, and the sub-area does not have at least 200 sample cases of two-bedroom, standard-quality rents, but the CBSA containing the sub-area does have at least 200 sample cases of two-bedroom, standard-quality rents.

ACS–3. FMR Areas that are MSAs or nonmetropolitan counties that have fewer than 200 sample cases of two-bedroom, standard-quality rents, or sub-areas of CBSAs that have fewer than 200 sample cases of two-bedroom, standard-quality rents.

ACS–4. FMR Areas that have at least 200 sample cases of two-bedroom, recent-mover rents. ACS–4 areas may be entire MSAs, sub-areas that are assigned CBSA rents, other sub-areas, or large nonmetropolitan counties. By definition, these areas are a subset of ACS–1 areas.

In ACS–1 FMR areas, the 2000 Census-to-2005 ACS update factor is the ratio of the 2005 ACS two-bedroom, standard-quality median rent to the 2000 Census two-bedroom, standard-quality median rent for the FMR Area.

In ACS–2 FMR areas, the 2000 Census-to-2005 ACS update factor is either: (1) the ratio of the 2005 ACS two-bedroom, standard-quality median rent to the 2000 Census two-bedroom, standard-quality median rent for the CBSA containing the FMR Area, or (2) the ratio of the 2005 ACS two-bedroom, standard-quality median rent to the 2000 Census two-bedroom, standard-quality median rent for the entire state (or population-weighted average of states) containing the FMR area, whichever brings its 2005 updated rent closer to the value of its CBSA 2005 updated rent.

In ACS–3 FMR areas, the 2000 Census-to-2005 ACS update factor is the ratio of the 2005 ACS two-bedroom, standard-quality median rent to the 2000 Census two-bedroom, standard-quality median rent for the parts of the state not in ACS–1 or ACS–2 FMR areas; or the population-weighted average factor across such parts of the states containing each multi-state FMR area. In cases where there are fewer than 200 sample cases of 2005 ACS two-bedroom, standard-quality median rents in the parts of the state not in ACS–1 or ACS–2 areas, HUD uses, as the update factor, the ratio of the 2005 ACS two-bedroom,

standard-quality median rent to the 2000 Census two-bedroom, standard-quality median rent for the entire state containing the FMR area [1].

In ACS–4 FMR areas, the local 2005 ACS recent-mover rent becomes a new base rent for 2005, if the updated 2000 Census base rent is outside its 90 percent confidence interval and the recent-mover median rent is greater than the local standard-quality median rent. This means that the ACS is used to replace the updated 2000 base rent with a 2005 local ACS base rent.

B. Data Sources—Legacy RDDs

The Department regularly obtains additional rent survey data to update the FMRs in the form of RDD telephone rent surveys meeting the Department's statistical criteria for updating FMRs. HUD conducted numerous RDD surveys between 2001 and 2005, and also accepted a number of non-HUD RDD surveys to update FMRs during this time period. Since these RDDs were performed according to the FMR area geography in place at the time, they may not provide usable coverage of FY2008 FMR areas. RDD surveys performed between 2001 and 2005 are used to update or replace 2000 Census base rents in ACS–2 and ACS–3 FMR areas under the following conditions (in ACS–1 and ACS–4 FMR areas, the ACS results are deemed superior to legacy RDD results, and legacy RDDs are not evaluated [2]):

- The RDD was the most recent RDD performed for the area.
- The RDD is "Accepted," meaning the updated 2000 Census base rent for the RDD area (prorated to the RDD month) is outside the 95 percent confidence interval of the RDD.
- If the Accepted RDD area covers at least 75 percent of the population of the FMR area, and the FMR area's population in the Accepted RDD area is at least 75 percent of the Accepted RDD area, the new base rent is the Accepted RDD result. If these conditions do not hold, the RDD is not used.

FMR area base rents affected by Legacy RDDs from 2001 to 2005 are updated to 2005 using the prorated 2000 Census to 2005 ACS update factor (from the RDD month to June 2005) for the area.

C. FMR Updates from 2005 to 2006

Local CPI data is used to move rents from June 2005 to the end of 2006 for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. Census region CPI data is used for FMR areas in Class B and C size metropolitan areas and in nonmetropolitan areas without local CPI update factors.

D. FMR Updates from 2006 to 2008

The national 1990-to-2000 average annual rent increase trend of 3 percent is applied for 1.25 years (from December 2006 through April 2008).

E. Additional Rent Surveys and Other Data

Post-2005 RDDs are evaluated against the 2005 ACS-based rent trended to the RDD month by the appropriate proportion (root) of the 2005-to-2008 update factors. For example, if the RDD was conducted in August 2006, then the appropriate root (14/18) of the 2005-to-2006 CPI-based update is used to update the 2005 ACS rent. If the RDD was conducted in February 2007, then the entire CPI update factor is applied to the 2005 rent, and the appropriate root (2/15) of the December 2006-to-April 2008 update is applied. If the updated 2005 rent is outside the 95 percent confidence interval of the RDD, then the RDD is "Accepted." Accepted RDD results are trended to April 2008 using the remainder of the 2005-to-2008 update factors.

The FMR bonuses related to the impact of Hurricane Katrina for Baton Rouge and New Orleans, which were first applied on March 6, 2006, are proposed to continue to be applied in the FY2008 FMRs. The 2005 ACS was conducted largely before the impact of Katrina, in particular its effects on the rental market, could be detected in the survey. Because the ACS indicates that the 2000-to-2005 FMR update factors for these areas should be lower than for other data sources used in FY2007 and earlier FMRs, HUD is adjusting the bonus percentages to 15 percent in Baton Rouge and 35 percent in New Orleans, since subsequent research shows that the tight rental market conditions in both areas indicate that FMRs should not be reduced.

The area-specific data and computations used to calculate proposed FY2008 FMRs and FMR area definitions can be found at: *http://www.huduser.org/datasets/fmrs/fmrs/index.asp?data=fmr08.*

F. Large Bedroom Rents

FMR estimates are calculated for two-bedroom units. This, generally, is the most common size of rental units, and, therefore, the most reliable to survey and analyze. After each Decennial Census, rent relationships between two-bedroom units and other unit sizes are calculated and used to set FMRs for other units. This is done because it is much easier to update two-bedroom estimates and to use pre-established cost relationships with other bedroom sizes than it is to develop independent FMR estimates for each bedroom size. This was last done using 2000 Census data. A publicly releasable version of the data file used that permits derivations of rent ratios is available at: *http://www.huduser.org/datasets/fmr/CensusRentData/index.html.*

The rents for three-bedroom and larger units continue to reflect HUD's policy to set higher rents for these units than would result from using normal market rents. This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds bonuses of 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR, for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero-bedroom (efficiency) FMR.

A further adjustment was made using 2000 Census data in establishing rent ratios for areas with local bedroom-size intervals above or below what are considered to be reasonable ranges or where sample sizes are inadequate to accurately measure bedroom rent differentials. HUD's experience has shown that highly unusual bedroom ratios typically reflect inadequate sample sizes or peculiar local circumstances that HUD would not want to utilize in setting FMRs (e.g., luxury efficiency apartments that rent for more than typical one-bedroom units). Bedroom interval ranges were established based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate

[1] For Final FY 2008 FMRs, HUD made one further adjustment to this update factor calculation. For sub-areas and MSAs that cross state lines (multi-state FMR areas), the population-weighted average factor is either the sub-area population-weighted average factor or the CBSA-wide population-weighted average factor, whichever brings the sub-area FMR closer to the CBSA FMR. This adjustment produces an increase in rents for Franklin County, AR; Gibson County, IN; Stewart County, TN; and Martinsburg, WV.

[2] The results of certain special case RDDs performed in ACS–1, ACS–2, and ACS–4 areas that, for example, adjusted bedroom rent ratios derived from the 2000 Census, may still be used on a case-by-case basis as noted in the FY2008 FMR . Documentation System; see *http://www.huduser.org/datasets/fmr/fmrs/index.asp?data-fmr08.*

bedroom ratio determinations. The ranges used were: efficiency units are constrained to fall between 0.65 and 0.83 of the two-bedroom FMR; one-bedroom units must be between 0.76 and 0.90 of the two-bedroom unit; three-bedroom units must be between 1.10 and 1.34 of the two-bedroom unit; and four-bedroom units must be between 1.14 and 1.63 of the two-bedroom unit. Bedroom rents for a given FMR area were then adjusted if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (i.e., efficiency rents were not allowed to be higher than one-bedroom rents, and four-bedroom rents were not allowed to be lower than three-bedroom rents).

For low-population, nonmetropolitan counties with small census samples for recent-mover rents, census-defined county group-data were used in determining rents for each bedroom size. This adjustment was made to protect against unrealistically high or low FMRs due to insufficient sample sizes. The areas covered by this new estimation method had less than the HUD standard of 200 two-bedroom, census-tabulated observations.

V. Public Comments

A total of 30 public comments were received on the proposed FY2008 FMRs. The local Public Housing Agency (PHAs) for the Seattle-Bellevue, WA, FMR area conducted a survey that HUD found acceptable. The PHAs' survey, however, resulted in only a small increase over the FY2008 proposed FMRs. A manufactured housing survey, also conducted for the Seattle-Bellevue area and found acceptable, is discussed in the following section.

Comments with data were submitted concerning Santa Rosa, CA; Casper, WY; Grand Junction, CO; the Counties of Moffat and Rio Blanco in Colorado; Rock Springs, WY; and Martinsburg, WV. None of the data were sufficient to determine new FMRs. Three towns in Southern Connecticut also submitted data; however, data for those towns were found to be unacceptable. For data to be acceptable, there must be sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one or more of the unit-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area. The data must be statistically significant, and newspaper ads are specifically excluded. The qualifications on the acceptance of data and conducting statistically significant surveys were discussed in the preamble to the proposed FMRs and should be followed when providing comments.

The National Association of Home Builders (NAHB) commended HUD for the use of FMR bonuses to help New Orleans and Baton Rouge continue its recovery from Hurricane Katrina. The NAHB also requested that HUD undertake RDD surveys for all areas with more than a 5 percent decrease in the FMR, a solution that HUD does not consider practical. HUD does not have the funds to survey all of these areas, and only two of the nine areas with decreases of more than 5 percent provided comments concerning their lower FMRs. There were several comments filed by Pittsburgh, PA, housing organizations, with some requesting a survey, but the FY2008 FMRs for Pittsburgh are based on the 2005 ACS local data for this area. This data shows that FMRs for Pittsburgh were overestimated in the past, and therefore, they have been lowered based on the 2005 ACS data. Okanogan County, WA, is the only other area to request a review of its decrease in FMRs and asked HUD to accept a simple survey conducted of its area, similar to one conducted and accepted in 2005. In reviewing this survey and the one conducted in 2005, HUD discovered that it mistakenly did not apply the 2005 survey.[3] The effect of applying the 2005 survey is shown in these final FMRs, and results in an increase for the two-bedroom FMR.

The NAHB disagreed with HUD's use of a substandard unit proxy set at the 75th percentile of public housing units, and instead recommended increasing this to the 95th percentile. It should be noted that HUD did not arbitrarily establish the cutoff at the 75th percentile of the regional public housing rent. It chose this level based on assisted housing data from the AHS. Instituting a 95th percentile of the regional public housing rent would be arbitrary, unlike the current standard.

Burlington County, NJ, while noting that it has historically been part of the Philadelphia-Camden-Wilmington, PA–NJ–DE, MSA, requested a change in its geographic definition to make it part of markets to the north in New Jersey. It claimed that its rents are higher than those in the Philadelphia metropolitan area. HUD would not be able to make this change in geographic definition. This is because HUD's FMR areas must follow the metropolitan area definitions as determined by OMB, which are based on commuting patterns. If there is such a rent disparity between Burlington County, NJ, and the rest of the Philadelphia metropolitan area, Burlington County, NJ, may qualify for an exception rent of up to 120 percent of the FMR or more. Procedures for requesting exception rents are outlined at *http://www.hud.gov/offices/pih/publications/notices/02/pih2002–20.pdf* and in the regulations at 24 CFR 982.503(c). HUD field offices have the authority to increase payment standards up to 120 percent above published FMR levels, and should be contacted to pursue this approach. Requests for exceptions above 120 percent of published FMRs have additional requirements specified in the referenced HUD notice and regulations.

The Mansfield Housing Authority, representing three towns in southern Connecticut that are part of the Hartford-West Hartford-East Hartford, CT, MSA, also requested higher FMRs, but may also qualify for exception rents. The information on rents provided by the PHA could not be used as a basis for higher FMRs because such data must be representative of the entire metropolitan area. Also, because a valid survey was not conducted, the information on rents also could not be used to determine an exception rent for the three towns. Nevertheless, these three areas could look into using the 2000 Census median rents if they qualify for exception rents over 110 percent of the FMR.

The Housing Authority of the City of Alameda, CA, appears to also have a concern about its geographic definition. Alameda asserts that the change in the geographic definition in FY2006 has resulted in a dilution of the FMR below what it would have been without the inclusion of former nonmetropolitan counties. This is not correct; the Oakland-Fremont HMFA is comprised of the same two counties that were included in FY2005. Alameda City may consider the use of an exception payment standard to receive higher rents.

Several comments were filed in support of higher FMRs for Transylvania County, NC. This nonmetropolitan county borders the metropolitan area of Asheville, NC, and even neighboring nonmetropolitan counties have higher rents. A survey was conducted of this area and supported an increase in the FMR. Another area requesting an FMR review and where HUD implemented an RDD survey was Kershaw County, SC, a

[3] During the process of reviewing the 2005 Okanogan County, WA, survey, HUD found two additional private surveys that had not been applied: Those for Kanabec County, MN, and Mille Lacs County, MN. Their surveys have now been applied and the final FY2008 FMRs reflect these increases.

county that has been separated from the metropolitan area, Columbia, SC, and the disparity in the FMR has been significant. The survey, halted for cost considerations, was not showing an increase in the FMR. Baker County, FL, has a situation that is similar to Kershaw County, SC: It is also a metropolitan county given its own rent because of the disparity with the rent for its metropolitan area, Jacksonville, FL. In this case, however, the rent and income disparity is significantly greater than for Kershaw County. To increase its rents, Baker County, FL, may be able to use the success rate payment standard, where the FMR is set between 90 percent and 110 percent of the 50th percentile rent (see 24 CFR 982.503(e)).

Genesee County, MI (Flint, MI, MSA), also sounds like a candidate for the success rate standard payment program. The Michigan State Housing Development Authority noted that the approximately 3 percent decrease in the FMRs for Genesee County, MI (Flint, MI, MSA), would create many programmatic problems, including an increase in rent burden for the tenants, a decrease in landlord participation, reduction in deconcentration, difficulty in serving the elderly and disabled, and lower voucher leasing rates. A survey of rents is not requested by Genesee County, MI, and would not likely improve the FMR.

The Oklahoma City Housing Authority brought up the issue of conducting ongoing and periodic RDD surveys for all FMR areas. In the past, HUD attempted to conduct surveys of all major metropolitan areas every 4 to 5 years. This is no longer possible, because RDD surveys have become more expensive as funding for these surveys has decreased and the ACS has eliminated the need to survey most large metropolitan areas. The PHA for Oklahoma City also requested a longer comment period.

Casper, WY, and Rock Springs, WY, have filed comments for the past 2 years suggesting that their FMRs are too low. Casper has been using the success rate payment standard program to increase its rents, and, even with the 10 percent increase in the FY2008 FMRs, does not believe the FMRs will be high enough to manage its program effectively. HUD is conducting field work to determine if an RDD is warranted. Rock Springs faces a tightening rental market as a result of the extensive natural gas development activity in the area, and claims the FMRs are too low. HUD will also consider a survey of this area, perhaps combined with other contiguous counties that may also be affected. ACS data on small areas will not be available for at least a year, and then it will be an aggregation of data from 2005 to 2007. Other areas in the Rocky Mountain region that commented on tightening rental markets include Grand Junction, Montrose County, Moffat County, and Rio Blanco County, all in Colorado. These areas will also be reviewed to determine if rents have increased and if they can be measured by an RDD survey. HUD carefully considers conducting surveys in tight markets, because historically there is a time lag between rental rate increases and an RDD survey's ability to effectively capture the changes. While most comments were concerned with the low FMRs, two comments, filed by the City and County of Honolulu, HI, and the Housing Authority of Owensboro, KY, requested significant reductions in their FY2008 FMRs. Honolulu stated that the increase in its FMR of 27 percent does not reflect the rental market for 2008, and requested an early review of its 50th percentile status, and requested that HUD conduct an RDD survey. Because Honolulu qualifies for a 50th percentile FMR, HUD cannot evaluate its progress for the 3-year period, as set forth in the regulations (see 24 CFR 888.113(c) (2)). An RDD survey will not be conducted. The FY2008 FMR is based on its own local recent-mover rents from the 2005 ACS survey, and this annual survey data will be available each year. To help manage its program, Honolulu may apply for an exception rent that is more than 90 percent below the FMR.

Owensboro, KY, notes that the higher FMRs are not needed. It has short waiting lists for the voucher program, its tenants are not paying more than 30 percent of the median, and there is no shortage of affordable units. Unlike Honolulu, the FY2008 FMR is not "rebenchmarked" to 2005 using its own rents from the ACS; Owensboro is updated to 2005 using state-level ACS data, so there is the possibility that its FMRs are too high and that it may benefit from a survey. The data provided by Owensboro was not statistically valid, but HUD will review the area to determine if an RDD survey is warranted. In the interim, Owensboro will have to seek relief by requesting exception rents below 90 percent of its FMR.

VI. Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces in the Housing Choice Voucher program is 40 percent of the FMR for a two-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area. HUD modified manufactured home space FMRs for Seattle-Bellevue, WA, based on survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area.

All approved exceptions to these rents that were in effect in FY2007 were updated to FY2008 using the same data used to estimate the Housing Choice Voucher program FMRs, so long as the respective FMR area's definition remained the same. If the result of this computation was higher than 40 percent of the rebenchmarked two-bedroom rent, the exception remains and is listed in Schedule D. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs. Areas with definitional changes that previously had exceptions to their manufactured housing space rental FMRs are requested to submit new surveys to justify higher-than-standard space rental FMRs, if they believe higher space rental allowances are needed.

VII. HUD Rental Housing Survey Guides

For the supporting data, HUD recommends the use of professionally conducted RDD telephone surveys to test the accuracy of FMRs, for areas where there is a sufficient number of Section 8 units to justify the survey cost of approximately $35,000. Areas with 2,000 or more program units usually meet this cost criterion, and areas with fewer units may meet it if actual rents for two-bedroom units are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, and at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, conduct surveys of groups of counties. HUD must approve all county-grouped surveys in advance. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed. Each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties where FMRs are based on the

combined rents in the cluster of FMR areas will not have their FMRs revised, unless the grouped-survey results show a revised FMR above the combined rent level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled "Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments." Smaller PHAs should obtain the guide entitled "Rental Housing Surveys: A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments." These guides are available from HUD USER at HUD's Web site, in Microsoft Word format, at the following address: *http://www.huduser.org/datasets/fmr.html.*

Other survey methodologies are acceptable in providing data to support comments, if the survey methodology can provide statistically reliable, unbiased estimates of the gross rent. Preferably, survey samples should be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative by structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The Decennial Census should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys of FMR areas cover only one- and two-bedroom units. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using ratios based on the Decennial Census. A PHA or contractor that cannot obtain the recommended number of sample responses, after reasonable efforts, should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD will consider increasing manufactured home space FMRs where public comment demonstrates that 40 percent of the two-bedroom FMR is not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must include a pad rental survey of the mobile home parks in the area, identify the utilities included in each park's rental fee, and provide a copy of the applicable public housing authority's utility schedule.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: September 24, 2007.

Darlene F. Williams,

Assistant Secretary for Policy, Development and Research.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. The FY2008 FMRs reflect a change in metropolitan area definitions. HUD is using the metropolitan Core Based Statistical Areas (CBSA), which are made up of one or more counties, as defined by the OMB, with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Micropolitan Areas.

b. Modifications to OMB Definitions—In keeping with OMB guidance, the estimation procedure for the FY2008 FMRs incorporates the current OMB definitions of metropolitan areas based on the CBSA standards, as implemented with 2000 Census data, but makes adjustments to the definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly if the new area definitions were used without modification. In CBSAs where sub-areas are established, it is HUD's view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so in the future as the social and economic integration of the CBSA component areas increases. Modifications to metropolitan CBSA definitions are made according to a formula, as described below.

Metropolitan area CBSAs (referred to as Metropolitan Statistical Areas or MSAs) may be modified to allow for sub-area FMRs within MSAs, based on the boundaries of old FMR areas (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY2005 FMRs. Collectively, they include 1999-definition MSAs/PMSAs, metropolitan counties deleted from 1999-definition MSAs/PMSAs by HUD for FMR purposes, and counties and county parts outside of 1999-definition MSAs/PMSAs referred to as nonmetropolitan counties.) Sub-areas of MSAs are assigned their own FMRs when the sub-area 2000 Census Base Rent differs by at least 5 percent from the MSA 2000 Census Base Rent (i.e., by at most 95 percent or at least 105 percent), or when the 2000 Census Median Family Income for the sub-area differs by at least 5 percent from the MSA 2000 Census Median Family Income. MSA sub-areas, and the remaining portions of MSAs after sub-areas have been determined, are referred to as HUD Metro FMR Areas (HMFAs), to distinguish such areas from OMB's official definition of MSAs.

The specific counties and New England towns and cities within each state in MSAs and HMFAs are listed in Schedule B.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for zero-bedroom through four-bedroom units. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

3. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each state. The exception rents for manufactured home spaces FMRs are listed alphabetically in Schedule D.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

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SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 1

ALABAMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston-Oxford, AL MSA	383	423	526	695	817	Calhoun
Auburn-Opelika, AL MSA	378	450	580	763	784	Lee
Birmingham-Hoover, AL HMFA	557	619	690	876	901	Bibb, Blount, Jefferson, St. Clair, Shelby
Chilton County, AL HMFA	353	488	543	682	781	Chilton
Columbus, GA-AL MSA	513	541	619	823	974	Russell
Decatur, AL MSA	419	470	541	708	734	Lawrence, Morgan
Dothan, AL HMFA	373	439	497	635	726	Geneva, Houston
Florence-Muscle Shoals, AL MSA	440	442	537	685	849	Colbert, Lauderdale
Gadsden, AL MSA	348	439	534	684	706	Etowah
Henry County, AL HMFA	314	433	481	575	593	Henry
Huntsville, AL MSA	464	506	597	817	897	Limestone, Madison
Mobile, AL MSA	520	556	628	823	971	Mobile
Montgomery, AL MSA	496	586	660	875	1156	Autauga, Elmore, Lowndes, Montgomery
Tuscaloosa, AL MSA	434	501	649	834	860	Greene, Hale, Tuscaloosa
Walker County, AL HMFA	440	441	529	661	722	Walker

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baldwin	480	577	686	910	1041	Barbour	403	404	485	600	618
Bullock	356	403	494	592	637	Butler	356	403	494	592	637
Chambers	399	433	481	653	673	Cherokee	418	419	504	600	619
Choctaw	399	421	481	610	815	Clarke	312	432	481	576	846
Clay	400	402	481	595	740	Cleburne	405	406	487	597	743
Coffee	383	438	496	679	870	Conecuh	399	421	481	610	815
Coosa	391	432	481	652	732	Covington	400	401	481	656	676
Crenshaw	356	403	494	592	637	Cullman	417	430	503	677	696
Dale	372	429	481	695	842	Dallas	319	442	491	619	664
DeKalb	359	381	481	640	658	Escambia	399	405	481	600	737
Fayette	316	366	481	701	847	Franklin	314	405	481	648	845
Jackson	400	433	481	613	845	Lamar	322	400	481	642	843
Macon	358	385	496	662	683	Marengo	399	424	481	623	640
Marion	312	365	481	611	845	Marshall	425	456	514	694	764
Monroe	399	433	481	666	735	Perry	399	424	481	623	640
Pickens	322	400	481	642	843	Pike	383	413	481	618	637
Randolph	400	402	481	595	740	Sumter	322	411	481	642	843
Talladega	407	408	489	660	862	Tallapoosa	385	394	483	681	791
Washington	399	421	481	610	815	Wilcox	399	421	481	610	815
Winston	321	366	481	576	593						

ALASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK HMFA	652	741	930	1339	1631	Anchorage
Fairbanks, AK MSA	607	730	934	1352	1428	Fairbanks North Star
Matanuska-Susitna Borough, AK HMFA	592	689	879	1250	1518	Matanuska-Susitna

ALASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutians East	759	862	1093	1351	1392
Bethel	868	1087	1319	1578	2316
Denali	639	788	984	1382	1556
Haines	639	788	984	1382	1556
Kenai Peninsula	572	653	795	1089	1396
Kodiak Island	731	856	1126	1618	1713
Nome	760	976	1121	1353	1393
Northwest Arctic	759	862	1093	1351	1392
Sitka	726	837	999	1456	1753
Southeast Fairbanks	639	788	984	1382	1556
Wade Hampton	759	862	1093	1351	1392
Yakutat	759	862	1093	1351	1392

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutians West	759	862	1093	1351	1392
Bristol Bay	759	862	1093	1351	1392
Dillingham	759	862	1093	1351	1392
Juneau	774	948	1192	1610	2007
Ketchikan Gateway	683	871	1047	1525	1839
Lake and Peninsula	759	862	1093	1351	1392
North Slope	783	915	1202	1438	1480
Prince of Wales-Outer Ketchikan	759	862	1093	1351	1392
Skagway-Hoonah-Angoon	759	862	1093	1351	1392
Valdez-Cordova	639	788	984	1382	1556
Wrangell-Petersburg	759	862	1093	1351	1392
Yukon-Koyukuk	759	862	1093	1351	1392

ARIZONA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ MSA	753	896	1012	1301	1641	Coconino
Lake Havasu City-Kingman, AZ MSA	564	620	723	1000	1116	Mohave
*Phoenix-Mesa-Scottsdale, AZ MSA	609	715	862	1256	1498	Maricopa, Pinal
Prescott, AZ MSA	627	648	818	1192	1228	Yavapai
*Tucson, AZ MSA	501	588	769	1110	1246	Pima
Yuma, AZ MSA	527	622	743	1054	1291	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	397	486	574	796	1009
Gila	509	596	784	1076	1109
Greenlee	483	537	674	926	1048
Navajo	474	506	668	900	1066
Cochise	466	540	678	936	1151
Graham	528	569	637	880	1013
La Paz	542	544	652	923	950
Santa Cruz	557	558	707	1031	1061

ARKANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR HMFA	478	504	630	917	943	Benton, Madison, Washington
Fort Smith, AR-OK HMFA	378	430	535	713	776	Crawford, Sebastian
Franklin County, AR HMFA	335	437	514	651	795	Franklin
Grant County, AR HMFA	429	442	540	782	806	Grant
Hot Springs, AR MSA	401	498	619	773	797	Garland
Jonesboro, AR HMFA	468	488	563	792	816	Craighead
Little Rock-North Little Rock-Conway, AR HMFA	535	608	678	908	937	Faulkner, Lonoke, Perry, Pulaski, Saline
Memphis, TN-MS-AR HMFA	615	669	743	990	1021	Crittenden
Pine Bluff, AR MSA	397	471	590	708	840	Cleveland, Jefferson, Lincoln
Poinsett County, AR HMFA	334	432	514	684	819	Poinsett
Texarkana, TX-Texarkana, AR MSA	476	481	592	722	786	Miller

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ARKANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	392	413	514	746	767
Baxter	394	457	553	743	937
Bradley	382	389	514	637	675
Carroll	450	451	541	682	950
Clark	409	415	534	688	709
Cleburne	465	466	559	766	984
Conway	427	440	514	708	770
Dallas	333	462	514	655	833
Drew	367	472	567	713	994
Greene	333	464	514	752	774
Hot Spring	428	429	514	674	695
Independence	357	426	514	665	722
Jackson	346	454	514	725	748
Lafayette	405	463	532	636	761
Lee	365	413	514	685	796
Logan	334	432	514	735	822
Mississippi	362	404	529	698	842
Montgomery	398	462	582	732	754
Newton	428	429	516	666	748
Phillips	426	430	514	669	690
Polk	427	463	514	668	813
Prairie	428	429	514	644	665
St. Francis	435	452	527	744	923
Searcy	428	429	516	666	748
Sharp	428	429	514	655	676
Union	439	462	528	684	888
White	440	441	530	720	740
Yell	425	448	514	705	727

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	400	413	543	651	716
Boone	433	434	522	669	751
Calhoun	333	462	514	655	833
Chicot	382	389	514	637	675
Clay	414	416	514	658	701
Columbia	337	433	519	637	729
Cross	429	431	517	754	823
Desha	382	389	514	654	675
Fulton	409	411	514	675	754
Hempstead	402	451	527	631	725
Howard	393	456	514	662	684
Izard	409	411	514	675	754
Johnson	333	457	514	685	819
Lawrence	335	410	514	632	836
Little River	405	463	532	649	761
Marion	427	428	514	676	745
Monroe	428	429	514	644	665
Nevada	405	463	532	636	761
Ouachita	333	463	514	707	829
Pike	405	463	532	636	761
Pope	386	414	536	755	777
Randolph	334	418	514	615	902
Scott	427	429	514	711	901
Sevier	429	443	514	710	823
Stone	409	411	514	675	754
Van Buren	334	390	514	637	821
Woodruff	428	429	514	644	665

CALIFORNIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	528	570	679	981	1176	Kern
Chico, CA MSA	551	655	790	1114	1330	Butte
El Centro, CA MSA	562	636	784	1079	1374	Imperial
Fresno, CA MSA	619	682	805	1171	1261	Fresno
Hanford-Corcoran, CA MSA	592	630	732	1067	1286	Kings
Los Angeles-Long Beach, CA HMFA	863	1041	1300	1746	2101	Los Angeles
Madera, CA MSA	595	625	797	1159	1195	Madera
Merced, CA MSA	534	609	740	1055	1232	Merced
Modesto, CA MSA	664	734	864	1239	1431	Stanislaus
Napa, CA MSA	834	935	1214	1679	1907	Napa
Oakland-Fremont, CA HMFA	866	1046	1239	1680	2080	Alameda, Contra Costa
*Orange County, CA HMFA	1185	1330	1595	2282	2622	Orange

CALIFORNIA continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Oxnard-Thousand Oaks-Ventura, CA MSA	1012	1118	1422	2038	2331	Ventura
Redding, CA MSA	541	630	766	1118	1347	Shasta
*Riverside-San Bernardino-Ontario, CA MSA	896	979	1142	1622	1896	Riverside, San Bernardino
Sacramento--Arden-Arcade--Roseville, CA HMFA	708	805	982	1417	1624	El Dorado, Placer, Sacramento
Salinas, CA MSA	860	968	1111	1570	1644	Monterey
San Benito County, CA HMFA	694	939	1045	1481	1833	San Benito
*San Diego-Carlsbad-San Marcos, CA MSA	978	1117	1355	1976	2382	San Diego
San Francisco, CA HMFA	1035	1272	1592	2125	2246	Marin, San Francisco, San Mateo
San Jose-Sunnyvale-Santa Clara, CA HMFA	928	1076	1293	1859	2047	Santa Clara
San Luis Obispo-Paso Robles, CA MSA	746	883	1075	1566	1611	San Luis Obispo
Santa Barbara-Santa Maria-Goleta, CA MSA	1065	1189	1334	1757	2005	Santa Barbara
Santa Cruz-Watsonville, CA MSA	970	1145	1493	2148	2214	Santa Cruz
Santa Rosa-Petaluma, CA MSA	740	901	1137	1613	1886	Sonoma
Stockton, CA MSA	650	741	914	1255	1580	San Joaquin
Vallejo-Fairfield, CA MSA	883	950	1090	1528	1882	Solano
Visalia-Porterville, CA MSA	471	526	612	875	899	Tulare
Yolo, CA HMFA	783	829	1013	1476	1570	Yolo
Yuba City, CA MSA	510	575	707	1029	1101	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	594	666	850	1212	1248	Amador	642	752	987	1434	1478
Calaveras	655	656	788	1149	1267	Colusa	597	599	779	1006	1367
Del Norte	585	593	767	1117	1151	Glenn	511	524	690	898	922
Humboldt	543	636	837	1200	1329	Inyo	538	564	733	1068	1259
Lake	538	631	821	1190	1324	Lassen	522	612	804	1169	1204
Mariposa	594	666	850	1212	1248	Mendocino	600	740	899	1227	1577
Modoc	518	571	748	1066	1106	Mono	700	843	1077	1475	1892
Nevada	673	786	1035	1495	1818	Plumas	533	624	822	1199	1443
Sierra	629	734	968	1372	1698	Siskiyou	465	558	713	1015	1045
Tehama	486	552	721	1048	1258	Trinity	526	552	725	995	1103
Tuolumne	579	688	889	1229	1266						

COLORADO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder, CO MSA	688	797	1000	1458	1748	Boulder
Colorado Springs, CO HMFA	563	631	797	1137	1345	El Paso
*Denver-Aurora, CO MSA	607	692	876	1244	1450	Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park
Fort Collins-Loveland, CO MSA	555	666	807	1175	1369	Larimer
Grand Junction, CO MSA	505	506	608	885	1070	Mesa
Greeley, CO MSA	503	533	652	951	1122	Weld
Pueblo CO MSA	475	500	657	861	974	Pueblo
Teller County, CO HMFA	577	675	888	1293	1558	Teller

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

COLORADO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	404	500	555	754	975
Baca	425	498	555	790	853
Chaffee	423	534	650	947	975
Conejos	425	498	555	790	853
Crowley	442	456	555	728	894
Delta	497	508	598	820	846
Eagle	841	982	1292	1625	2220
Garfield	645	734	814	1004	1035
Gunnison	522	573	745	1031	1308
Huerfano	425	498	555	790	853
Kiowa	442	456	555	728	894
Lake	637	802	969	1206	1701
Las Animas	382	507	562	724	748
Logan	436	437	557	725	839
Moffat	409	447	561	735	985
Montrose	428	562	651	864	1071
Otero	433	457	555	769	791
Phillips	442	456	555	728	894
Prowers	426	500	555	753	976
Rio Grande	426	498	555	805	855
Saguache	425	498	555	790	853
San Miguel	685	823	1051	1532	1579
Summit	736	864	1130	1609	1983
Yuma	442	456	555	728	894

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	508	598	752	914	1181
Bent	442	456	555	728	894
Cheyenne	442	456	555	728	894
Costilla	425	498	555	790	853
Custer	452	528	696	974	1121
Dolores	508	595	689	912	1178
Fremont	403	481	618	887	1017
Grand	504	576	732	1065	1097
Hinsdale	637	802	969	1206	1701
Jackson	566	654	726	936	1130
Kit Carson	442	456	555	728	894
La Plata	556	679	777	1090	1241
Lincoln	442	456	555	728	894
Mineral	637	802	969	1206	1701
Montezuma	445	520	601	718	959
Morgan	482	522	582	775	936
Ouray	637	802	969	1206	1701
Pitkin	889	1039	1367	1899	2400
Rio Blanco	566	654	726	936	1130
Routt	655	775	1008	1206	1770
San Juan	508	595	689	912	1178
Sedgwick	442	456	555	728	894
Washington	442	456	555	728	894

CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT HMFA	760	982	1171	1399	1699	Fairfield County towns of Bridgeport town, Easton town, Fairfield town, Monroe town, Shelton town, Stratford town, Trumbull town
Colchester-Lebanon, CT HMFA	674	792	1039	1243	1282	New London County towns of Colchester town, Lebanon town
Danbury, CT HMFA	942	1143	1451	1737	2153	Fairfield County towns of Bethel town, Brookfield town, Danbury town, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
*Hartford-West Hartford-East Hartford, CT HMFA	673	806	985	1183	1469	Hartford County towns of Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town, Enfield town, Farmington town, Glastonbury town, Granby town, Hartford town, Hartland town, Manchester town, Marlborough town, New Britain town, Newington town, Plainville town, Rocky Hill town, Simsbury town, Southington town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor Locks town

CONNECTICUT continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Middlesex County towns of Chester town, Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown town, Portland town
						Tolland County towns of Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Union town, Vernon town, Willington town
Milford-Ansonia-Seymour, CT HMFA	829	961	1075	1368	1503	New Haven County towns of Ansonia town, Beacon Falls town, Derby town, Milford town, Oxford town, Seymour town
*New Haven-Meriden, CT HMFA	834	946	1142	1367	1562	New Haven County towns of Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, West Haven town, Woodbridge town
Norwich-New London, CT HMFA	674	800	926	1133	1252	New London County towns of Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Lyme town, Montville town, New London town, North Stonington town, Norwich town, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Voluntown town, Waterford town
Southern Middlesex County, CT HMFA	794	836	1064	1365	1557	Middlesex County towns of Clinton town, Deep River town, Essex town, Killingworth town, Old Saybrook town, Westbrook town
Stamford-Norwalk, CT HMFA	1079	1314	1642	2140	2585	Fairfield County towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT HMFA	561	726	863	1033	1075	New Haven County towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Litchfield County, CT	609	794	937	1203	1353	Barkhamsted town, Bethlehem town, Bridgewater town, Canaan town, Colebrook town, Cornwall town, Goshen town, Harwinton town, Kent town, Litchfield town, Morris town, New Hartford town, New Milford town, Norfolk town, North Canaan town, Plymouth town, Roxbury town, Salisbury town, Sharon town, Thomaston town, Torrington town, Warren town, Washington town, Watertown town, Winchester town, Woodbury town
Windham County, CT	563	681	820	1032	1095	Ashford town, Brooklyn town, Canterbury town, Chaplin town, Eastford town, Hampton town, Killingly town, Plainfield town, Pomfret town, Putnam town, Scotland town, Sterling town, Thompson town, Windham town, Woodstock town

DELAWARE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	617	671	743	972	1305	Kent

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

DELAWARE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA...	682	781	932	1116	1327	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex.....	566	617	685	937	964

DISTRICT OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Washington-Arlington-Alexandria, DC-VA-MD HMFA...	1025	1168	1324	1708	2235	District of Columbia

FLORIDA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baker County, FL HMFA.....	361	500	555	811	833	Baker
Cape Coral-Fort Myers, FL MSA.....	720	778	886	1204	1240	Lee
Deltona-Daytona Beach-Ormond Beach, FL MSA.....	581	679	845	1093	1125	Volusia
*Fort Lauderdale, FL HMFA.....	908	1016	1221	1689	2144	Broward
Fort Walton Beach-Crestview-Destin, FL MSA.....	584	684	769	1122	1232	Okaloosa
Gainesville, FL MSA.....	591	651	742	1085	1118	Alachua, Gilchrist
Jacksonville, FL HMFA.....	616	701	816	1024	1173	Clay, Duval, Nassau, St. Johns
Lakeland, FL MSA.....	586	647	745	945	1109	Polk
Miami-Miami Beach-Kendall, FL HMFA.....	753	853	1035	1324	1547	Miami-Dade
Naples-Marco Island, FL MSA.....	818	938	1056	1313	1366	Collier
Ocala, FL MSA.....	584	602	706	927	955	Marion
Orlando-Kissimmee, FL MSA.....	737	801	915	1146	1349	Lake, Orange, Osceola, Seminole
Palm Bay-Melbourne-Titusville, FL MSA.....	566	692	815	1098	1224	Brevard
Palm Coast, FL MSA.....	623	719	904	1266	1350	Flagler
Panama City-Lynn Haven, FL MSA.....	602	635	727	1004	1117	Bay
Pensacola-Ferry Pass-Brent, FL MSA.....	589	641	711	1030	1246	Escambia, Santa Rosa
Port St. Lucie, FL MSA.....	680	682	864	1142	1177	Martin, St. Lucie
Punta Gorda, FL MSA.....	609	638	827	1207	1453	Charlotte
*Sarasota-Bradenton-Venice, FL MSA.....	761	833	1002	1280	1406	Manatee, Sarasota
Sebastian-Vero Beach, FL MSA.....	560	675	861	1072	1103	Indian River
Tallahassee, FL HMFA.....	612	680	840	1121	1153	Gadsden, Jefferson, Leon
Tampa-St. Petersburg-Clearwater, FL MSA.....	658	730	883	1119	1351	Hernando, Hillsborough, Pasco, Pinellas
Wakulla County, FL HMFA.....	575	625	695	914	942	Wakulla
*West Palm Beach-Boca Raton, FL HMFA.....	859	1006	1188	1680	1731	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bradford.....	376	522	579	717	740
Citrus.....	520	565	626	908	1093
DeSoto.....	511	523	615	742	763
Franklin.....	485	486	583	734	835
Gulf.....	485	486	582	733	836
Hardee.....	511	555	615	755	776

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Calhoun.....	485	486	582	733	836
Columbia.....	452	523	618	771	1084
Dixie.....	458	500	555	693	773
Glades.....	537	572	650	794	848
Hamilton.....	458	500	555	693	773
Hendry.....	487	582	649	780	962

FLORIDA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Highlands	552	554	664	859	1027
Jackson	389	498	555	687	802
Levy	460	493	555	709	729
Madison	485	486	582	733	836
Okeechobee	548	567	660	889	915
Sumter	460	500	555	729	975
Taylor	494	536	596	713	732
Walton	543	559	655	810	834
Holmes	463	492	558	726	762
Lafayette	458	500	555	693	773
Liberty	485	486	582	733	836
Monroe	812	988	1217	1771	1896
Putnam	461	500	555	666	686
Suwannee	368	501	555	699	766
Union	451	519	583	771	795
Washington	370	420	555	795	818

GEORGIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	486	519	609	817	843	Baker, Dougherty, Lee, Terrell, Worth
Athens-Clarke County, GA MSA	521	579	726	967	998	Clarke, Madison, Oconee, Oglethorpe
Atlanta-Sandy Springs-Marietta, GA HMFA	684	741	824	1003	1094	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton
Augusta-Richmond County, GA-SC MSA	537	582	654	876	921	Burke, Columbia, McDuffie, Richmond
Brunswick, GA MSA	488	531	589	839	1034	Brantley, Glynn, McIntosh
Butts County, GA HMFA	380	508	587	856	1020	Butts
Chattanooga, TN-GA MSA	513	543	639	787	925	Catoosa, Dade, Walker
Columbus, GA-AL MSA	513	541	619	823	974	Chattahoochee, Harris, Marion, Muscogee
Dalton, GA HMFA	498	541	598	740	762	Whitfield
Gainesville, GA MSA	680	713	822	1009	1171	Hall
Haralson County, GA HMFA	431	452	518	754	914	Haralson
Hinesville-Fort Stewart, GA HMFA	492	534	595	837	953	Liberty
Lamar County, GA HMFA	443	445	534	704	937	Lamar
Long County, GA HMFA	439	476	530	726	748	Long
Macon, GA MSA	511	555	617	761	793	Bibb, Crawford, Jones, Twiggs
Meriwether County, GA HMFA	435	440	525	633	653	Meriwether
Monroe County, GA HMFA	493	537	595	713	737	Monroe
Murray County, GA HMFA	465	503	560	670	689	Murray
Rome, GA MSA	470	479	618	758	783	Floyd
Savannah, GA MSA	638	691	769	1020	1054	Bryan, Chatham, Effingham
Valdosta, GA MSA	502	504	606	822	847	Brooks, Echols, Lanier, Lowndes
Warner Robins, GA MSA	557	567	673	977	1123	Houston

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	429	467	518	631	651
Bacon	430	450	518	660	751
Banks	447	484	537	652	927
Berrien	425	426	518	642	661
Bulloch	477	493	584	701	719
Camden	532	534	643	936	1128
Charlton	430	450	518	660	751
Atkinson	430	450	518	660	751
Baldwin	403	486	603	720	742
Ben Hill	339	437	522	632	649
Bleckley	364	425	518	641	735
Calhoun	430	466	518	665	816
Candler	429	467	518	631	651
Chattooga	338	413	518	621	904

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 9

GEORGIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clay	430	466	518	665	816
Coffee	429	444	518	645	789
Cook	430	439	518	704	911
Decatur	384	447	588	703	781
Dooly	430	445	518	653	882
Elbert	430	449	518	651	671
Evans	429	467	518	631	651
Franklin	447	484	537	652	927
Glascock	371	393	518	620	728
Grady	337	465	518	718	742
Habersham	510	513	614	736	1078
Hart	430	466	518	618	908
Jackson	533	579	644	782	1021
Jefferson	371	413	518	620	728
Johnson	389	477	532	687	718
Lincoln	430	449	518	651	671
Macon	430	445	518	653	882
Mitchell	338	428	518	621	862
Morgan	465	466	575	688	708
Pierce	430	450	518	660	751
Pulaski	393	459	518	754	791
Quitman	430	466	518	665	816
Randolph	430	466	518	665	816
Screven	371	393	518	620	728
Stephens	345	479	532	637	657
Sumter	404	454	558	668	980
Taliaferro	430	449	518	651	671
Taylor	430	445	518	653	882
Thomas	474	514	571	733	1002
Toombs	337	466	518	722	799
Treutlen	393	459	518	693	793
Turner	430	456	518	657	801
Upson	364	493	561	670	691
Warren	430	449	518	651	671
Wayne	371	420	518	684	909
Wheeler	393	459	518	693	793
Wilcox	393	459	518	693	793
Wilkinson	389	477	532	687	718

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clinch	430	450	518	660	751
Colquitt	431	465	518	620	780
Crisp	430	434	518	654	674
Dodge	409	410	518	693	713
Early	430	466	518	665	816
Emanuel	338	393	518	631	807
Fannin	350	487	540	646	775
Gilmer	506	548	611	806	973
Gordon	506	510	655	783	808
Greene	430	449	518	651	671
Hancock	430	449	518	651	671
Irwin	430	456	518	657	801
Jeff Davis	429	467	518	631	651
Jenkins	371	393	518	620	728
Laurens	430	468	518	696	844
Lumpkin	454	589	700	945	1048
Miller	399	465	518	649	773
Montgomery	393	459	518	693	793
Peach	469	470	567	811	853
Polk	425	473	577	711	735
Putnam	391	395	518	753	774
Rabun	508	527	612	789	952
Schley	430	445	518	653	882
Seminole	399	465	518	649	773
Stewart	430	466	518	665	816
Talbot	495	497	599	738	760
Tattnall	431	466	518	683	747
Telfair	393	459	518	693	793
Tift	451	489	541	691	799
Towns	508	527	612	786	952
Troup	496	502	629	796	821
Union	508	527	612	786	952
Ware	429	463	518	664	696
Washington	371	426	518	633	728
Webster	430	445	518	653	882
White	453	565	628	793	954
Wilkes	430	449	518	651	671

HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Honolulu, HI MSA	1131	1348	1630	2377	2799	Honolulu

HAWAII continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	741	889	998	1407	1542
Kauai	797	898	1183	1485	1616
Kalawao	830	957	1125	1422	1619
Maui	1021	1132	1316	1761	1886

IDAHO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City-Nampa, ID HMFA	472	560	660	960	1020	Ada, Boise, Canyon, Owyhee
Coeur d'Alene, ID MSA	526	568	683	993	1111	Kootenai
Gem County, ID HMFA	440	533	592	861	886	Gem
Idaho Falls, ID MSA	446	470	600	823	1033	Bonneville, Jefferson
Lewiston, ID-WA MSA	461	479	599	851	1036	Nez Perce
Logan, UT-ID MSA	454	490	613	822	1015	Franklin
Pocatello, ID MSA	383	445	574	829	972	Bannock, Power

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	449	468	589	798	950
Benewah	516	525	660	943	972
Blaine	745	810	899	1277	1576
Boundary	516	525	660	943	972
Camas	457	500	623	821	878
Cassia	457	500	623	821	878
Clearwater	457	472	585	844	974
Elmore	389	454	597	757	927
Gooding	457	500	623	821	878
Jerome	457	500	623	821	878
Lemhi	427	456	583	824	979
Lincoln	457	500	623	821	878
Minidoka	360	473	555	735	756
Payette	386	465	591	748	977
Teton	427	456	583	824	979
Valley	449	468	589	798	950
Bear Lake	382	440	563	800	944
Bingham	391	433	555	764	789
Bonner	521	546	670	948	976
Butte	427	456	583	824	979
Caribou	382	440	563	800	944
Clark	427	456	583	824	979
Custer	427	456	583	824	979
Fremont	427	456	583	824	979
Idaho	447	478	630	753	891
Latah	459	479	579	844	977
Lewis	457	472	585	844	974
Madison	431	432	555	806	877
Oneida	382	440	563	800	944
Shoshone	459	460	555	731	774
Twin Falls	412	500	634	817	967
Washington	449	468	589	798	950

ILLINOIS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	483	533	673	900	1125	McLean
Bond County, IL HMFA	381	407	528	768	903	Bond
Champaign-Urbana, IL MSA	463	563	662	831	1141	Champaign, Ford, Piatt
*Chicago-Naperville-Joliet, IL HMFA	734	840	944	1154	1304	Cook, DuPage, Kane, Lake, McHenry, Will
Danville, IL MSA	365	437	562	673	714	Vermilion
Davenport-Moline-Rock Island, IA-IL MSA	458	511	643	820	855	Henry, Mercer, Rock Island
DeKalb County, IL HMFA	528	597	784	1017	1247	DeKalb
Decatur, IL MSA	382	455	577	769	793	Macon
Grundy County, IL HMFA	532	623	817	1029	1385	Grundy

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ILLINOIS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kankakee-Bradley, IL MSA	469	511	674	874	937	Kankakee
Kendall County, IL HMFA	762	763	917	1289	1397	Kendall
Macoupin County, IL HMFA	485	486	584	728	753	Macoupin
Peoria, IL MSA	423	500	623	802	911	Marshall, Peoria, Stark, Tazewell, Woodford
Rockford, IL MSA	466	525	666	871	897	Boone, Winnebago
Springfield, IL MSA	410	482	623	813	908	Menard, Sangamon
St. Louis, MO-IL HMFA	528	572	711	916	958	Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	344	408	528	686	708	Alexander	430	438	528	695	766
Brown	342	416	528	705	727	Bureau	374	435	574	707	775
Carroll	401	453	571	711	731	Cass	417	419	528	671	692
Christian	345	442	528	682	798	Clark	342	477	528	768	793
Clay	346	431	528	705	725	Coles	365	468	562	792	987
Crawford	344	407	528	694	728	Cumberland	366	455	550	732	965
De Witt	434	435	530	692	810	Douglas	357	448	550	783	807
Edgar	343	402	528	664	684	Edwards	430	438	528	695	766
Effingham	464	465	560	707	748	Fayette	438	450	528	731	753
Franklin	342	419	528	655	926	Fulton	367	438	528	675	837
Gallatin	430	438	528	695	766	Greene	363	405	531	673	707
Hamilton	430	438	528	695	766	Hancock	440	441	528	635	656
Hardin	430	438	528	695	766	Henderson	364	426	528	667	797
Iroquois	393	436	528	664	779	Jackson	357	436	549	748	930
Jasper	342	425	528	695	715	Jefferson	451	463	552	694	715
Jo Daviess	414	444	528	704	725	Johnson	430	438	528	695	766
Knox	363	425	559	742	765	La Salle	437	471	621	784	1008
Lawrence	343	401	528	702	724	Lee	380	467	561	749	872
Livingston	392	481	605	722	752	Logan	453	454	543	746	855
McDonough	356	419	528	677	885	Marion	385	441	528	675	743
Mason	342	434	528	742	765	Massac	439	440	528	769	793
Montgomery	439	440	528	633	784	Morgan	372	433	570	707	768
Moultrie	352	416	542	683	829	Ogle	449	479	628	821	877
Perry	343	448	528	638	819	Pike	342	419	528	710	731
Pope	430	438	528	695	766	Pulaski	430	438	528	695	766
Putnam	357	417	549	694	759	Randolph	344	401	528	700	858
Richland	393	476	528	727	871	Saline	344	443	528	715	926
Schuyler	342	419	528	710	731	Scott	363	405	531	673	707
Shelby	438	439	528	688	779	Stephenson	397	464	611	731	754
Union	439	440	528	647	804	Wabash	430	438	528	695	766
Warren	343	402	528	659	751	Washington	365	419	528	678	699
Wayne	342	416	528	672	692	White	430	438	528	695	766
Whiteside	404	475	586	725	745	Williamson	345	403	528	761	784

INDIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, IN MSA	535	536	644	828	862	Madison
Bloomington, IN HMFA	455	527	643	914	944	Monroe
Carroll County, IN HMFA	389	458	600	790	813	Carroll
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Dearborn, Franklin, Ohio
Columbus, IN MSA	618	620	744	912	976	Bartholomew
Elkhart-Goshen, IN MSA	511	570	704	885	927	Elkhart
Evansville, IN-KY HMFA	415	484	602	743	807	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	479	509	636	793	815	Allen, Wells, Whitley
Gary, IN HMFA	490	611	745	890	919	Lake, Newton, Porter
Gibson County, IN HMFA	465	466	558	714	982	Gibson
Greene County, IN HMFA	431	432	555	805	833	Greene
Indianapolis, IN HMFA	528	611	726	939	994	Boone, Brown, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby
Jasper County, IN HMFA	541	543	674	879	906	Jasper
Kokomo, IN MSA	516	522	662	844	869	Howard, Tipton
Lafayette, IN HMFA	511	604	742	966	1105	Benton, Tippecanoe
Louisville, KY-IN HMFA	483	559	663	926	984	Clark, Floyd, Harrison
Michigan City-La Porte, IN MSA	443	511	649	862	887	LaPorte
Muncie, IN MSA	528	540	653	880	923	Delaware
Owen County, IN HMFA	474	476	570	722	1001	Owen
Putnam County, IN HMFA	526	528	635	759	855	Putnam
South Bend-Mishawaka, IN HMFA	510	568	683	876	902	St. Joseph
Sullivan County, IN HMFA	360	422	555	664	683	Sullivan
Terre Haute, IN HMFA	396	451	580	715	823	Clay, Vermillion, Vigo
Washington County, IN HMFA	422	472	555	683	909	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	461	500	555	726	856	Blackford	472	475	569	724	782
Cass	402	433	569	725	748	Clinton	492	521	637	796	834
Crawford	396	451	555	686	727	Daviess	461	464	555	722	885
Decatur	532	535	642	832	858	DeKalb	455	487	618	850	873
Dubois	371	445	571	779	802	Fayette	378	468	581	769	791
Fountain	408	490	555	743	776	Fulton	472	490	569	803	828
Grant	483	484	585	738	861	Henry	502	504	604	777	869
Huntington	432	515	609	760	920	Jackson	517	518	630	810	982
Jay	360	442	555	752	776	Jefferson	411	440	580	694	859
Jennings	398	470	614	744	1024	Knox	386	440	555	687	857
Kosciusko	419	489	642	817	951	LaGrange	509	510	612	737	819
Lawrence	401	474	618	739	760	Marshall	437	504	626	825	851
Martin	396	436	555	684	799	Miami	360	423	555	808	871
Montgomery	408	480	611	832	876	Noble	543	544	654	782	804
Orange	359	421	555	698	762	Parke	462	464	555	699	880
Perry	361	422	555	720	744	Pike	360	426	555	718	741
Pulaski	477	478	575	763	788	Randolph	461	462	555	791	816
Ripley	527	529	637	767	878	Rush	499	500	601	720	789
Scott	417	467	591	764	884	Spencer	360	426	555	718	741

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 13

INDIANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Starke	479	505	578	764	803
Switzerland	436	473	622	779	868
Wabash	362	422	555	759	864
Wayne	395	464	582	790	814
Steuben	462	527	693	836	860
Union	391	478	603	751	775
Warren	393	483	605	744	864
White	419	578	642	767	1084

IOWA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ames, IA MSA	538	568	702	1005	1188	Story
Benton County, IA HMFA	342	404	527	656	879	Benton
Bremer County, IA HMFA	347	427	532	637	861	Bremer
Cedar Rapids, IA HMFA	413	481	634	898	1021	Linn
Davenport-Moline-Rock Island, IA-IL MSA	458	511	643	820	855	Scott
Des Moines-West Des Moines, IA MSA	503	600	732	938	1045	Dallas, Guthrie, Madison, Polk, Warren
Dubuque, IA MSA	397	427	561	754	821	Dubuque
Iowa City, IA HMFA	471	561	708	1032	1207	Johnson
Jones County, IA HMFA	438	440	527	739	762	Jones
Omaha-Council Bluffs, NE-IA HMFA	501	569	710	948	975	Harrison, Mills, Pottawattamie
Sioux City, IA-NE-SD MSA	413	485	636	801	824	Woodbury
Washington County, IA HMFA	349	420	534	681	819	Washington
Waterloo-Cedar Falls, IA HMFA	398	489	585	718	879	Black Hawk, Grundy

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	360	401	527	643	719
Allamakee	374	411	527	683	727
Audubon	394	404	527	693	725
Buchanan	437	438	527	680	698
Butler	374	411	527	683	727
Carroll	358	417	550	656	677
Cedar	373	412	543	702	760
Cherokee	394	404	527	693	725
Clarke	360	411	540	646	720
Clayton	374	411	527	683	727
Crawford	394	416	527	693	725
Decatur	360	401	527	643	719
Des Moines	409	447	566	711	801
Emmet	370	399	527	645	757
Floyd	370	399	527	659	679
Fremont	394	480	604	741	797
Hamilton	409	411	527	664	694
Hardin	451	453	542	648	689
Howard	374	411	527	683	727
Ida	394	404	527	693	725
Jackson	373	412	543	702	760
Adams	360	401	527	643	719
Appanoose	342	400	527	666	729
Boone	394	475	605	787	848
Buena Vista	411	415	543	652	748
Calhoun	417	418	527	677	708
Cass	394	480	604	741	797
Cerro Gordo	398	442	582	723	743
Chickasaw	374	411	527	683	727
Clay	342	399	527	640	802
Clinton	342	401	527	672	767
Davis	360	401	527	643	719
Delaware	373	412	543	702	760
Dickinson	341	422	527	667	924
Fayette	374	411	527	683	727
Franklin	380	419	527	674	706
Greene	394	404	527	693	725
Hancock	380	419	527	674	706
Henry	444	446	534	764	787
Humboldt	417	418	527	677	708
Iowa	408	431	535	700	722
Jasper	411	448	589	749	782

IOWA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jefferson	440	448	530	667	811
Kossuth	380	419	527	674	706
Louisa	404	452	559	723	765
Lyon	370	399	527	645	757
Marion	394	484	604	746	768
Mitchell	380	419	527	674	706
Monroe	360	401	527	643	719
Muscatine	402	496	617	760	819
Osceola	370	399	527	645	757
Palo Alto	370	399	527	645	757
Pocahontas	417	418	527	677	708
Ringgold	360	401	527	643	719
Shelby	394	480	604	741	797
Tama	408	431	535	700	722
Union	360	401	527	643	719
Wapello	376	437	577	688	717
Webster	401	409	531	734	758
Winneshiek	343	401	527	685	928
Wright	417	418	527	677	708

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Keokuk	360	401	527	643	719
Lee	384	447	527	668	687
Lucas	360	401	527	643	719
Mahaska	390	442	563	674	890
Marshall	402	466	582	748	859
Monona	394	404	527	693	725
Montgomery	394	480	604	741	797
O'Brien	370	399	527	645	757
Page	340	401	527	629	647
Plymouth	437	438	527	710	731
Poweshiek	367	429	564	721	743
Sac	394	404	527	693	725
Sioux	428	434	527	713	733
Taylor	360	401	527	643	719
Van Buren	360	401	527	643	719
Wayne	360	401	527	643	719
Winnebago	380	419	527	674	706
Worth	380	419	527	674	706

KANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Franklin County, KS HMFA	475	476	590	752	804	Franklin
*Kansas City, MO-KS HMFA	547	657	754	1020	1073	Johnson, Leavenworth, Linn, Miami, Wyandotte
Lawrence, KS MSA	517	531	683	997	1199	Douglas
St. Joseph, MO-KS MSA	361	446	555	699	829	Doniphan
Sumner County, KS HMFA	340	400	525	707	822	Sumner
Topeka, KS MSA	454	494	605	767	806	Jackson, Jefferson, Osage, Shawnee, Wabaunsee
Wichita, KS HMFA	423	473	622	796	894	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	395	400	525	696	757
Atchison	413	459	563	820	989
Barton	341	411	525	698	904
Brown	413	459	563	820	989
Chautauqua	380	422	525	676	736
Cheyenne	393	399	525	672	691
Clay	408	447	550	706	869
Coffey	366	400	525	668	689
Cowley	351	429	525	665	685
Decatur	393	399	525	672	691
Edwards	341	402	525	684	806

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	380	422	525	676	736
Barber	341	402	525	684	806
Bourbon	381	405	525	759	855
Chase	366	400	525	668	689
Cherokee	438	454	525	735	902
Clark	454	459	558	679	745
Cloud	407	415	525	689	712
Comanche	341	402	525	684	806
Crawford	373	436	574	773	862
Dickinson	342	398	525	632	779
Elk	380	422	525	676	736

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 15

KANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ellis	377	427	562	777	814
Finney	462	463	597	725	918
Geary	373	442	543	719	804
Graham	393	399	525	672	691
Gray	454	459	558	679	745
Greenwood	366	400	525	668	689
Harper	341	402	525	684	806
Hodgeman	454	459	558	679	745
Kearny	454	459	558	679	745
Kiowa	341	402	525	684	806
Lane	454	459	558	679	745
Logan	393	399	525	672	691
McPherson	437	438	525	687	707
Marshall	408	447	550	706	869
Mitchell	407	415	525	689	712
Morris	408	447	550	706	869
Nemaha	413	459	563	820	989
Ness	454	459	558	679	745
Osborne	393	399	525	672	691
Pawnee	341	402	525	684	806
Pottawatomie	355	492	546	695	801
Rawlins	393	399	525	672	691
Republic	407	415	525	689	712
Riley	429	463	575	837	1009
Rush	341	402	525	684	806
Saline	435	436	574	765	788
Seward	394	484	560	688	833
Sherman	386	399	525	659	679
Stafford	341	402	525	684	806
Stevens	454	459	558	679	745
Trego	393	399	525	672	691
Washington	407	415	525	689	712
Wilson	379	421	525	675	734

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ellsworth	407	415	525	689	712
Ford	481	482	580	714	763
Gove	393	399	525	672	691
Grant	454	459	558	679	745
Greeley	454	459	558	679	745
Hamilton	454	459	558	679	745
Haskell	454	459	558	679	745
Jewell	407	415	525	689	712
Kingman	341	402	525	684	806
Labette	341	408	525	711	732
Lincoln	407	415	525	689	712
Lyon	342	400	525	701	830
Marion	366	400	525	668	689
Meade	454	459	558	679	745
Montgomery	376	420	525	646	804
Morton	454	459	558	679	745
Neosho	340	409	525	625	918
Norton	393	399	525	672	691
Ottawa	407	415	525	689	712
Phillips	393	399	525	672	691
Pratt	342	400	525	680	803
Reno	374	416	546	748	770
Rice	380	415	525	696	718
Rooks	393	399	525	672	691
Russell	393	399	525	672	691
Scott	454	459	558	679	745
Sheridan	393	399	525	672	691
Smith	393	399	525	672	691
Stanton	454	459	558	679	745
Thomas	391	398	525	667	687
Wallace	393	399	525	672	691
Wichita	454	459	558	679	745
Woodson	380	422	525	676	736

KENTUCKY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bowling Green, KY MSA	447	533	649	865	1020	Edmonson, Warren
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Boone, Bracken, Campbell, Gallatin, Kenton, Pendleton
Clarksville, TN-KY HMFA	518	539	626	905	931	Christian, Trigg
Elizabethtown, KY MSA	413	460	555	790	972	Hardin, Larue
Evansville, IN-KY HMFA	415	484	602	743	807	Henderson, Webster
Grant County, KY HMFA	443	534	680	837	938	Grant

KENTUCKY continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Huntington-Ashland, WV-KY-OH MSA	396	468	562	693	716	Boyd, Greenup
Lexington-Fayette, KY MSA	461	554	683	918	947	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN HMFA	483	559	663	926	984	Bullitt, Henry, Jefferson, Oldham, Spencer, Trimble
Meade County, KY HMFA	458	459	550	706	791	Meade
Nelson County, KY HMFA	392	473	572	833	901	Nelson
Owensboro, KY MSA	402	447	588	816	864	Daviess, Hancock, McLean
Shelby County, KY HMFA	549	551	665	875	901	Shelby

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	371	412	490	597	666	Allen	320	417	490	654	847
Anderson	473	506	668	966	1152	Ballard	402	444	548	702	791
Barren	338	396	513	640	704	Bath	384	416	513	641	662
Bell	322	440	490	585	717	Boyle	412	456	599	718	741
Breathitt	407	427	490	609	637	Breckinridge	401	403	518	693	714
Butler	439	521	634	834	858	Caldwell	407	408	490	620	705
Calloway	488	489	588	724	1033	Carlisle	402	444	548	702	791
Carroll	482	483	600	793	862	Carter	321	427	495	590	667
Casey	371	412	490	597	666	Clay	318	440	490	585	602
Clinton	371	412	490	597	666	Crittenden	407	408	490	640	727
Cumberland	371	412	490	597	666	Elliott	429	430	518	658	778
Estill	407	408	490	626	825	Fleming	384	416	513	641	662
Floyd	371	416	490	643	741	Franklin	485	515	677	918	944
Fulton	402	444	548	702	791	Garrard	414	463	556	664	974
Graves	393	395	490	585	713	Grayson	408	409	490	639	750
Green	369	409	490	592	661	Harlan	406	437	490	603	762
Harrison	422	425	555	728	751	Hart	365	398	490	625	728
Hickman	402	444	548	702	791	Hopkins	406	407	490	614	859
Jackson	406	427	490	592	610	Johnson	319	417	490	668	687
Knott	407	427	490	613	637	Knox	321	388	490	691	714
Laurel	407	441	490	602	823	Lawrence	318	371	490	654	674
Lee	407	427	490	613	637	Leslie	407	427	490	613	637
Letcher	407	427	490	609	637	Lewis	384	416	513	641	662
Lincoln	354	484	537	643	850	Livingston	406	407	490	630	716
Logan	435	472	525	719	796	Lyon	478	486	577	748	775
McCracken	367	462	568	762	785	McCreary	407	440	490	632	648
Madison	421	447	572	807	946	Magoffin	407	411	490	603	630
Marion	401	403	518	693	714	Marshall	439	441	531	692	900
Martin	407	411	490	603	630	Mason	331	423	511	746	856
Menifee	384	416	513	641	662	Mercer	447	476	540	711	837
Metcalfe	365	398	490	625	728	Monroe	365	398	490	625	728
Montgomery	395	460	607	724	747	Morgan	384	416	513	641	662
Muhlenberg	404	405	490	622	639	Nicholas	503	503	659	807	890
Ohio	405	430	490	650	713	Owen	537	612	699	941	1225

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 17

KENTUCKY continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Owsley	407	427	490	613	637
Pike	416	417	502	602	620
Pulaski	348	385	490	605	640
Rockcastle	406	427	490	592	610
Russell	371	412	490	597	666
Taylor	322	441	490	632	830
Union	433	435	524	638	671
Wayne	320	392	490	635	654
Wolfe	407	427	490	613	637
Perry	407	428	490	586	718
Powell	373	470	575	688	709
Robertson	384	416	513	641	662
Rowan	433	480	534	670	692
Simpson	439	516	678	843	869
Todd	478	486	577	748	775
Washington	401	403	518	693	714
Whitley	375	395	520	621	640

LOUISIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	421	456	543	706	727	Grant, Rapides
Baton Rouge, LA HMFA	603	656	758	966	1063	Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Houma-Bayou Cane-Thibodaux, LA MSA	467	471	584	767	874	Lafourche, Terrebonne
Iberville Parish, LA HMFA	406	407	490	663	684	Iberville
Lafayette, LA MSA	486	557	618	793	1005	Lafayette, St. Martin
Lake Charles, LA MSA	455	513	624	770	1084	Calcasieu, Cameron
Monroe, LA MSA	413	468	581	771	795	Ouachita, Union
New Orleans-Metairie-Kenner, LA MSA	764	846	990	1271	1314	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany
Shreveport-Bossier City, LA MSA	472	543	634	805	830	Bossier, Caddo, De Soto

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Acadia	390	390	474	599	687
Assumption	444	446	535	653	671
Beauregard	403	414	487	709	853
Caldwell	374	400	474	600	669
Claiborne	436	444	525	627	687
East Carroll	374	400	474	600	669
Franklin	374	400	474	600	669
Jackson	374	400	474	600	669
La Salle	359	387	474	601	726
Madison	374	400	474	600	669
Natchitoches	455	456	547	655	846
Richland	374	400	474	600	669
St. James	454	530	649	796	821
St. Mary	431	438	527	689	711
Tensas	374	400	474	600	669
Vernon	388	428	474	688	821
Webster	381	382	483	651	672
Winn	394	427	474	598	637
Allen	393	394	474	689	765
Avoyelles	307	418	474	645	771
Bienville	436	444	525	627	687
Catahoula	359	387	474	601	726
Concordia	359	387	474	614	726
Evangeline	392	394	474	607	624
Iberia	450	461	544	672	783
Jefferson Davis	393	395	474	600	616
Lincoln	467	482	561	730	754
Morehouse	403	404	503	603	653
Red River	436	444	525	627	687
Sabine	436	444	525	627	687
St. Landry	310	371	474	640	681
Tangipahoa	410	477	600	719	853
Vermilion	394	395	474	650	672
Washington	393	397	474	631	650
West Carroll	374	400	474	600	669

MAINE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME HMFA	506	590	753	957	1081	Penobscot County towns of Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island Reservation, Veazie town
Cumberland County, ME (part) HMFA	553	660	850	1015	1301	Cumberland County towns of Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Lewiston-Auburn, ME MSA	417	523	639	810	897	Androscoggin County towns of Auburn city, Durham town, Greene town, Leeds town, Lewiston city, Lisbon town, Livermore town, Livermore Falls town, Mechanic Falls town, Minot town, Poland town, Sabattus town, Turner town, Wales town
Penobscot County, ME (part) HMFA	517	518	623	779	955	Penobscot County towns of Alton town, Argyle UT, Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penobscot UT, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Howland town, Hudson town, Kingman UT, Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Newport town, North Penobscot UT, Passadumkeag town, Patten town, Plymouth town, Prentiss UT, Seboeis plantation, Springfield town, Stacyville town, Stetson town, Twombly UT, Webster plantation, Whitney UT, Winn town, Woodville town
Portland, ME HMFA	673	800	1036	1305	1399	Cumberland County towns of Cape Elizabeth town, Casco town, Cumberland town, Falmouth town, Freeport town, Frye Island town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town York County towns of Buxton town, Hollis town, Limington town, Old Orchard Beach town
Sagadahoc County, ME HMFA	666	667	800	966	1386	Sagadahoc County towns of Arrowsic town, Bath city, Bowdoin town, Bowdoinham town, Georgetown town, Perkins UT, Phippsburg town, Richmond town, Topsham town, West Bath town, Woolwich town
York County, ME (part) HMFA	609	633	805	963	1051	York County towns of Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town
York-Kittery-South Berwick, ME HMFA	783	787	944	1374	1498	York County towns of Berwick town, Eliot town, Kittery town, South Berwick town, York town

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 19

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Aroostook County, ME	394	485	582	760	837	Allagash town, Amity town, Ashland town, Bancroft town, Blaine town, Bridgewater town, Caribou city, Cary plantation, Castle Hill town, Caswell town, Central Aroostook UT, Chapman town, Connor UT, Crystal town, Cyr plantation, Dyer Brook town, Eagle Lake town, Easton town, Fort Fairfield town, Fort Kent town, Frenchville town, Garfield plantation, Glenwood plantation, Grand Isle town, Hamlin town, Hammond town, Haynesville town, Hersey town, Hodgdon town, Houlton town, Island Falls town, Limestone town, Linneus town, Littleton town, Ludlow town, Macwahoc plantation, Madawaska town, Mapleton town, Mars Hill town, Masardis town, Merrill town, Monticello town, Moro plantation, Nashville plantation, New Canada town, New Limerick town, New Sweden town, Northwest Aroostook UT, Oakfield town, Orient town, Oxbow plantation, Penobscot Indian Island Reservation, Perham town, Portage Lake town, Presque Isle city, Reed plantation, St. Agatha town, St. Francis town, St. John plantation, Sherman town, Smyrna town, South Aroostook UT, Square Lake UT, Stockholm town, Van Buren town, Wade town, Wallagrass town, Washburn town, Westfield town, Westmanland town, Weston town, Winterville plantation, Woodland town
Franklin County, ME	489	527	642	767	995	Avon town, Carrabassett Valley town, Carthage town, Chesterville town, Coplin plantation, Dallas plantation, East Central Franklin UT, Eustis town, Farmington town, Industry town, Jay town, Kingfield town, Madrid town, New Sharon town, New Vineyard town, North Franklin UT, Phillips town, Rangeley town, Rangeley plantation, Sandy River plantation, South Franklin UT, Strong town, Temple town, Weld town, West Central Franklin UT, Wilton town, Wyman UT
Hancock County, ME	534	615	716	1008	1037	Amherst town, Aurora town, Bar Harbor town, Blue Hill town, Brooklin town, Brooksville town, Bucksport town, Castine town, Central Hancock UT, Cranberry Isles town, Dedham town, Deer Isle town, Eastbrook town, East Hancock UT, Ellsworth city, Franklin town, Frenchboro town, Gouldsboro town, Great Pond town, Hancock town, Lamoine town, Mariaville town, Mount Desert town, Northwest Hancock UT, Orland town, Osborn town, Otis town, Penobscot town, Sedgwick town, Sorrento town, Southwest Harbor town, Stonington town, Sullivan town, Surry town, Swans Island town, Tremont town, Trenton town, Verona town, Waltham town, Winter Harbor town
Kennebec County, ME	423	507	631	861	920	Albion town, Augusta city, Belgrade town, Benton town, Chelsea town, China town, Clinton town, Farmingdale town, Fayette town, Gardiner city, Hallowell city, Litchfield town, Manchester town, Monmouth town, Mount Vernon town, Oakland town, Pittston town, Randolph town, Readfield town,

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Knox County, ME	483	639	729	987	1139	Rome town, Sidney town, Unity UT, Vassalboro town, Vienna town, Waterville city, Wayne town, West Gardiner town, Windsor town, Winslow town, Winthrop town Appleton town, Camden town, Criehaven UT, Cushing town, Friendship town, Hope town, Isle au Haut town, Matinicus Isle plantation, North Haven town, Owls Head town, Rockland city, Rockport town, St. George town, South Thomaston town, Thomaston town, Union town, Vinalhaven town, Warren town, Washington town
Lincoln County, ME	584	628	757	914	942	Alna town, Boothbay town, Boothbay Harbor town, Bremen town, Bristol town, Damariscotta town, Dresden town, Edgecomb town, Hibberts gore, Jefferson town, Monhegan plantation, Newcastle town, Nobleboro town, Somerville town, South Bristol town, Southport town, Waldoboro town, Westport town, Whitefield town, Wiscasset town
Oxford County, ME	407	542	624	831	1042	Andover town, Bethel town, Brownfield town, Buckfield town, Byron town, Canton town, Denmark town, Dixfield town, Fryeburg town, Gilead town, Greenwood town, Hanover town, Hartford town, Hebron town, Hiram town, Lincoln plantation, Lovell town, Magalloway plantation, Mexico town, Milton UT, Newry town, North Oxford UT, Norway town, Otisfield town, Oxford town, Paris town, Peru town, Porter town, Roxbury town, Rumford town, South Oxford UT, Stoneham town, Stow town, Sumner town, Sweden town, Upton town, Waterford town, West Paris town, Woodstock town
Piscataquis County, ME	507	578	715	907	971	Abbot town, Atkinson town, Beaver Cove town, Blanchard UT, Bowerbank town, Brownville town, Dover-Foxcroft town, Greenville town, Guilford town, Kingsbury plantation, Lake View plantation, Medford town, Milo town, Monson town, Northeast Piscataquis UT, Northwest Piscataquis UT, Parkman town, Sangerville town, Sebec town, Shirley town, Southeast Piscataquis UT, Wellington town, Willimantic town
Somerset County, ME	406	504	597	843	894	Anson town, Athens town, Bingham town, Brighton plantation, Cambridge town, Canaan town, Caratunk town, Central Somerset UT, Cornville town, Dennistown plantation, Detroit town, Embden town, Fairfield town, Harmony town, Hartland town, Highland plantation, Jackman town, Madison town, Mercer town, Moose River town, Moscow town, New Portland town, Norridgewock town, Northeast Somerset UT, Northwest Somerset UT, Palmyra town, Pittsfield town, Pleasant Ridge plantation, Ripley town, St. Albans town, Seboomook Lake UT, Skowhegan town, Smithfield town, Solon town, Starks town, The Forks plantation, West Forks plantation
Waldo County, ME	569	610	736	902	960	Belfast city, Belmont town, Brooks town, Burnham town, Frankfort town, Freedom town, Islesboro town, Jackson town, Knox town, Liberty town, Lincolnville town, Monroe town, Montville town, Morrill town, Northport town, Palermo town, Prospect town, Searsmont town, Searsport town,

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 21

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Washington County, ME	489	528	630	781	851	Stockton Springs town, Swanville town, Thorndike town, Troy town, Unity town, Waldo town, Winterport town Addison town, Alexander town, Baileyville town, Baring plantation, Beals town, Beddington town, Calais city, Centerville town, Charlotte town, Cherryfield town, Codyville plantation, Columbia town, Columbia Falls town, Cooper town, Crawford town, Cutler town, Danforth town, Deblois town, Dennysville town, East Central Washington UT, East Machias town, Eastport city, Grand Lake Stream plantation, Harrington town, Jonesboro town, Jonesport town, Lubec town, Machias town, Machiasport town, Marshfield town, Meddybemps town, Milbridge town, Northfield town, North Washington UT, Passamaquoddy Indian Township Reservation, Passamaquoddy Pleasant Point Reservation, Pembroke town, Perry town, Princeton town, Robbinston town, Roque Bluffs town, Steuben town, Talmadge town, Topsfield town, Vanceboro town, Waite town, Wesley town, Whiting town, Whitneyville town

MARYLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Baltimore-Towson, MD HMFA	747	844	1013	1301	1607	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city
Columbia city, MD HMFA	1165	1211	1405	1909	2224	Columbia city
Cumberland, MD-WV MSA	391	473	555	749	874	Allegany
Hagerstown, MD HMFA	486	558	713	1029	1062	Washington
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	682	781	932	1116	1327	Cecil
Salisbury, MD HMFA	527	655	770	954	1094	Wicomico
Somerset County, MD HMFA	520	554	652	807	1060	Somerset
*Washington-Arlington-Alexandria, DC-VA-MD HMFA	1025	1168	1324	1708	2235	Calvert, Charles, Frederick, Montgomery, Prince George's

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	590	610	714	965	992
Garrett	371	460	571	737	976
St. Mary's	747	775	1009	1326	1746
Worcester	635	660	765	1117	1189

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Dorchester	444	534	680	917	944
Kent	664	665	800	982	1318
Talbot	692	694	835	1130	1193

MASSACHUSETTS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable Town, MA MSA	743	870	1145	1366	1409	Barnstable County towns of Barnstable Town city, Bourne town, Brewster town, Chatham town, Dennis town, Eastham town, Falmouth town, Harwich town, Mashpee town, Orleans town, Provincetown town, Sandwich town, Truro town, Wellfleet town,

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Yarmouth town
Berkshire County, MA (part) HMFA.....	590	662	764	1046	1076	Berkshire County towns of Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town
Boston-Cambridge-Quincy, MA-NH HMFA.....	1086	1153	1353	1618	1778	Essex County towns of Amesbury town, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town Middlesex County towns of Acton town, Arlington town, Ashby town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown city, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city Norfolk County towns of Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin city, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town Plymouth County towns of Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town Suffolk County towns of Boston city, Chelsea city, Revere city, Winthrop town
Brockton, MA HMFA.....	926	963	1213	1451	1818	Norfolk County towns of Avon town Plymouth County towns of Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Marion town, Mattapoisett town, Middleborough town, Plympton town, Rochester town, West Bridgewater town, Whitman town
Eastern Worcester County, MA HMFA.....	747	835	1099	1313	1929	Worcester County towns of Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town,

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Mendon town, Milford town, Millville town, Southborough town, Upton town
Easton-Raynham, MA HMFA	811	1074	1249	1494	2160	Bristol County towns of Easton town, Raynham town
Fitchburg-Leominster, MA HMFA	634	728	913	1118	1214	Worcester County towns of Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town
Franklin County, MA (part) HMFA	567	662	820	1094	1321	Franklin County towns of Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield town, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town
Lawrence, MA-NH HMFA	733	932	1127	1346	1387	Essex County towns of Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen city, North Andover town, West Newbury town
Lowell, MA HMFA	801	958	1232	1471	1614	Middlesex County towns of Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town
New Bedford, MA HMFA	559	716	819	981	1324	Bristol County towns of Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city
Pittsfield, MA HMFA	556	650	806	1036	1067	Berkshire County towns of Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town
*Providence-Fall River, RI-MA HMFA	800	874	1020	1221	1556	Bristol County towns of Attleboro city, Fall River city, North Attleborough town, Rehoboth town, Seekonk town, Somerset town, Swansea town, Westport town
Springfield, MA HMFA	559	664	844	1010	1172	Franklin County towns of Sunderland town Hampden County towns of Agawam city, Blandford town, Brimfield town, Chester town, Chicopee city, East Longmeadow town, Granville town, Hampden town, Holland town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer town, Russell town, Southwick town, Springfield city, Tolland town, Wales town, Westfield city, West Springfield town, Wilbraham town Hampshire County towns of Amherst town, Belchertown town, Chesterfield town, Cummington town, Easthampton city, Goshen town, Granby town, Hadley town, Hatfield town, Huntington town, Middlefield town, Northampton city, Pelham town, Plainfield town, Southampton town, South Hadley town, Ware town, Westhampton town, Williamsburg town, Worthington town
Taunton-Mansfield-Norton, MA HMFA	699	882	1077	1321	1426	Bristol County towns of Berkley town, Dighton town, Mansfield town, Norton town, Taunton city
Western Worcester County, MA HMFA	509	700	785	937	1203	Worcester County towns of Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town
Worcester, MA HMFA	689	792	965	1154	1224	Worcester County towns of Auburn town, Barre town,

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge town, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Dukes County, MA	892	1132	1348	1611	1661	Aquinnah town, Chilmark town, Edgartown town, Gosnold town, Oak Bluffs town, Tisbury town, West Tisbury town
Nantucket County, MA	1044	1445	1604	1918	1976	Nantucket town

MICHIGAN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI MSA	690	774	942	1185	1220	Washtenaw
Barry County, MI HMFA	411	519	634	914	1006	Barry
Battle Creek, MI MSA	471	541	662	806	830	Calhoun
Bay City, MI MSA	435	486	591	789	812	Bay
Cass County, MI HMFA	457	523	578	766	890	Cass
Detroit-Warren-Livonia, MI HMFA	591	673	805	963	993	Lapeer, Macomb, Oakland, St. Clair, Wayne
Flint, MI MSA	495	522	627	777	801	Genesee
*Grand Rapids-Wyoming, MI HMFA	545	583	702	896	939	Kent
Holland-Grand Haven, MI MSA	592	601	722	999	1079	Ottawa
Ionia County, MI HMFA	438	508	619	741	825	Ionia
Jackson, MI MSA	492	549	655	814	838	Jackson
Kalamazoo-Portage, MI MSA	507	541	657	873	911	Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	550	597	739	936	1015	Clinton, Eaton, Ingham
Livingston County, MI HMFA	721	760	894	1289	1569	Livingston
Monroe, MI MSA	645	647	779	1017	1120	Monroe
Muskegon-Norton Shores, MI MSA	438	457	594	785	808	Muskegon
Newaygo County, MI HMFA	482	510	582	787	810	Newaygo
Niles-Benton Harbor, MI MSA	463	518	632	773	992	Berrien
Saginaw-Saginaw Township North, MI MSA	455	520	657	787	809	Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	395	458	560	754	799	Alger	367	465	555	684	770
Allegan	471	567	680	852	914	Alpena	438	498	555	766	847
Antrim	489	490	591	821	1037	Arenac	441	465	555	743	822
Baraga	367	465	555	684	770	Benzie	605	606	734	917	943
Branch	468	500	658	789	811	Charlevoix	513	555	615	884	913
Cheboygan	395	458	566	760	799	Chippewa	374	465	574	696	779

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MICHIGAN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clare	407	422	555	748	770
Delta	385	458	555	730	774
Emmet	430	529	659	888	940
Gogebic	383	458	555	679	807
Gratiot	463	464	555	740	826
Houghton	395	462	555	722	827
Iosco	453	480	555	807	837
Isabella	461	498	555	799	872
Keweenaw	383	458	555	679	807
Leelanau	605	606	734	917	943
Luce	383	468	555	728	794
Manistee	450	466	611	731	820
Mason	361	424	555	726	798
Menominee	461	462	555	732	976
Missaukee	434	522	615	808	888
Montmorency	395	459	574	756	800
Ogemaw	427	448	555	717	793
Osceola	461	462	555	760	957
Otsego	462	539	709	850	893
Roscommon	461	463	555	721	887
Sanilac	464	500	557	784	806
Shiawassee	403	495	617	850	947
Wexford	395	522	608	804	886

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crawford	395	460	573	756	800
Dickinson	361	438	555	669	912
Gladwin	441	465	555	743	822
Grand Traverse	618	619	776	1016	1048
Hillsdale	396	487	580	815	891
Huron	461	464	555	736	894
Iron	383	458	555	679	807
Kalkaska	485	527	585	710	732
Lake	428	468	559	732	880
Lenawee	452	567	696	888	969
Mackinac	374	465	575	693	756
Marquette	360	467	555	698	759
Mecosta	412	491	594	789	1041
Midland	459	522	644	887	948
Montcalm	436	505	578	780	805
Oceana	408	472	563	681	726
Ontonagon	383	458	555	679	807
Oscoda	395	458	560	754	799
Presque Isle	395	458	560	754	799
St. Joseph	466	520	613	756	848
Schoolcraft	383	468	555	728	794
Tuscola	406	464	589	707	845

MINNESOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth, MN-WI MSA	394	480	605	760	968	Carlton, St. Louis
Fargo, ND-MN MSA	394	468	595	859	992	Clay
Grand Forks, ND-MN MSA	382	480	589	746	1014	Polk
La Crosse, WI-MN MSA	398	466	613	813	999	Houston
Minneapolis-St. Paul-Bloomington, MN-WI MSA	593	699	848	1110	1247	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright
Rochester, MN HMFA	586	626	822	1066	1113	Dodge, Olmsted
St. Cloud, MN MSA	482	531	636	899	1044	Benton, Stearns
Wabasha County, MN HMFA	401	446	572	716	1004	Wabasha

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	405	476	625	780	844
Beltrami	392	463	589	810	1034
Blue Earth	462	578	668	961	1175
Cass	362	463	558	704	724
Clearwater	391	442	560	707	982
Becker	360	426	555	695	722
Big Stone	360	438	555	709	734
Brown	418	476	571	683	703
Chippewa	425	462	555	664	685
Cook	365	463	562	704	725

MINNESOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cottonwood	406	444	555	708	740
Douglas	399	475	597	865	946
Fillmore	389	468	584	762	956
Goodhue	452	530	696	886	958
Hubbard	391	442	560	707	982
Jackson	406	444	555	708	740
Kandiyohi	454	466	578	779	803
Koochiching	362	463	558	704	724
Lake	365	463	562	704	725
Le Sueur	502	518	623	867	895
Lyon	432	485	596	743	765
Mahnomen	391	442	560	707	982
Martin	460	461	555	806	830
Mille Lacs	468	481	634	786	872
Mower	371	435	555	689	710
Nicollet	523	537	631	827	854
Norman	365	437	555	707	828
Pennington	362	427	555	701	765
Pipestone	406	444	555	708	740
Red Lake	365	437	555	707	828
Renville	454	473	583	762	784
Rock	406	444	555	708	740
Sibley	454	473	583	762	784
Stevens	364	457	560	675	911
Todd	408	458	566	683	908
Wadena	408	458	566	683	908
Watonwan	406	444	555	708	740
Winona	412	487	635	878	1114

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crow Wing	417	488	644	826	966
Faribault	406	444	555	708	740
Freeborn	360	422	555	662	872
Grant	360	438	555	709	734
Itasca	382	472	588	712	835
Kanabec	434	509	669	835	902
Kittson	365	437	555	707	828
Lac qui Parle	425	462	555	664	685
Lake of the Woods	391	442	560	707	982
Lincoln	425	462	555	664	685
McLeod	525	526	652	934	964
Marshall	365	437	555	707	828
Meeker	454	503	583	762	784
Morrison	378	449	581	695	1020
Murray	406	444	555	708	740
Nobles	365	457	555	736	759
Otter Tail	362	430	555	677	697
Pine	453	491	634	828	855
Pope	360	438	555	709	734
Redwood	425	462	555	664	685
Rice	550	574	755	902	1049
Roseau	365	433	562	701	820
Steele	439	533	673	847	1104
Swift	360	438	555	709	734
Traverse	360	438	555	709	734
Waseca	405	476	625	748	781
Wilkin	360	438	555	709	734
Yellow Medicine	425	462	555	664	685

MISSISSIPPI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Gulfport-Biloxi, MS MSA	546	579	676	881	905	Hancock, Harrison, Stone
Hattiesburg, MS MSA	428	488	581	846	873	Forrest, Lamar, Perry
Jackson, MS HMFA	570	644	747	899	926	Copiah, Hinds, Madison, Rankin
Marshall County, MS HMFA	327	408	504	736	759	Marshall
Memphis, TN-MS-AR HMFA	615	669	743	990	1021	DeSoto
Pascagoula, MS MSA	469	536	644	887	951	George, Jackson
Simpson County, MS HMFA	435	459	525	629	908	Simpson
Tate County, MS HMFA	414	480	534	748	938	Tate
Tunica County, MS HMFA	454	546	699	839	1030	Tunica

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

MISSISSIPPI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	344	476	528	633	907
Amite	398	447	498	602	684
Benton	455	509	564	677	695
Calhoun	408	421	498	667	836
Chickasaw	377	463	542	649	682
Claiborne	414	415	498	624	732
Clay	413	414	498	726	748
Covington	414	415	498	624	732
Greene	377	404	498	650	685
Holmes	421	487	542	648	679
Issaquena	421	487	542	648	679
Jasper	391	423	498	599	637
Jefferson Davis	414	415	498	624	732
Kemper	415	461	530	694	718
Lauderdale	420	471	552	758	782
Leake	391	423	498	599	637
Leflore	323	379	498	661	778
Lowndes	437	448	525	763	786
Monroe	413	440	498	623	666
Neshoba	322	435	498	593	871
Noxubee	419	435	506	693	739
Panola	323	447	498	597	688
Pike	413	448	498	655	676
Prentiss	324	377	498	597	615
Scott	414	440	498	596	642
Smith	391	423	498	599	637
Tallahatchie	336	377	498	661	692
Tishomingo	323	421	498	625	646
Walthall	398	447	498	602	684
Washington	344	448	528	685	838
Webster	408	421	498	667	836
Winston	377	463	542	649	682
Yazoo	412	437	498	595	615

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn	414	446	498	692	875
Attala	408	421	498	667	836
Bolivar	406	459	528	633	928
Carroll	336	377	498	661	692
Choctaw	408	421	498	667	836
Clarke	415	461	530	694	718
Coahoma	424	439	579	692	1017
Franklin	398	447	498	602	684
Grenada	388	426	498	701	835
Humphreys	336	377	498	661	692
Itawamba	323	440	498	658	777
Jefferson	414	415	498	624	732
Jones	337	391	498	656	677
Lafayette	447	528	651	780	803
Lawrence	414	415	498	624	732
Lee	453	473	545	744	839
Lincoln	363	448	498	683	874
Marion	392	444	498	654	744
Montgomery	408	421	498	667	836
Newton	415	461	530	694	718
Oktibbeha	396	481	586	764	786
Pearl River	439	440	527	643	907
Pontotoc	413	414	498	677	697
Quitman	408	436	514	616	772
Sharkey	421	487	542	648	679
Sunflower	362	445	498	710	732
Tippah	413	449	498	648	807
Union	338	470	521	624	755
Warren	507	556	621	742	764
Wayne	377	404	498	650	685
Wilkinson	398	447	498	602	684
Yalobusha	408	421	498	667	836

MISSOURI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bates County, MO HMFA	337	397	518	727	751	Bates
Calloway County, MO HMFA	426	430	544	743	765	Callaway
Columbia, MO MSA	413	494	614	894	997	Boone, Howard
Dallas County, MO HMFA	326	423	501	684	706	Dallas
Jefferson City, MO HMFA	384	423	549	778	865	Cole, Osage
Joplin, MO MSA	360	433	551	701	722	Jasper, Newton

MISSOURI continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Kansas City, MO-KS HMFA	547	657	754	1020	1073	Caldwell, Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
McDonald County, MO HMFA	400	401	503	716	739	McDonald
Moniteau County, MO HMFA	329	384	507	613	817	Moniteau
Polk County, MO HMFA	326	381	501	730	837	Polk
Springfield, MO HMFA	377	445	569	811	926	Christian, Greene, Webster
St. Joseph, MO-KS MSA	361	446	555	699	829	Andrew, Buchanan, DeKalb
St. Louis, MO-IL HMFA	528	572	711	916	958	Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city
Washington County, MO HMFA	383	446	501	659	735	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	361	419	553	726	802	Atchison	402	403	501	624	772
Audrain	415	416	501	632	803	Barry	327	412	501	653	675
Barton	326	411	501	607	666	Benton	326	388	501	695	720
Bollinger	366	412	541	691	800	Butler	414	415	501	694	742
Camden	457	464	570	830	854	Cape Girardeau	371	432	570	737	928
Carroll	436	437	552	692	773	Carter	415	416	501	696	748
Cedar	326	388	501	695	720	Chariton	436	437	552	692	773
Clark	369	380	501	620	730	Cooper	399	420	546	728	848
Crawford	326	413	501	667	879	Dade	383	403	530	678	732
Daviess	402	403	501	624	772	Dent	375	408	501	661	840
Douglas	370	415	501	663	768	Dunklin	388	422	501	640	715
Gasconade	356	387	501	627	798	Gentry	402	403	501	624	772
Grundy	402	403	501	624	772	Harrison	402	403	501	624	772
Henry	361	419	553	664	684	Hickory	326	388	501	695	720
Holt	402	403	501	624	772	Howell	345	396	501	621	879
Iron	366	412	541	691	800	Johnson	439	468	567	758	853
Knox	369	380	501	620	730	Laclede	411	412	501	655	859
Lawrence	415	416	501	682	787	Lewis	369	380	501	620	730
Linn	369	380	501	620	730	Livingston	394	395	501	669	876
Macon	405	406	501	600	645	Madison	366	412	541	691	800
Maries	375	408	501	661	840	Marion	329	383	505	657	676
Mercer	402	403	501	624	772	Miller	418	419	501	669	697
Mississippi	351	382	501	661	763	Monroe	329	384	507	651	670
Montgomery	329	384	507	651	670	Morgan	425	426	511	694	808
New Madrid	357	410	501	668	688	Nodaway	443	444	552	660	771
Oregon	370	415	501	663	768	Ozark	370	415	501	663	768
Pemiscot	327	383	501	630	648	Perry	372	404	530	635	932
Pettis	437	438	567	707	847	Phelps	371	399	501	693	853
Pike	325	380	501	656	716	Pulaski	429	463	515	748	819
Putnam	369	380	501	620	730	Ralls	329	384	507	651	670
Randolph	338	397	520	659	678	Reynolds	415	416	501	696	748

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

MISSOURI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ripley	415	416	501	696	748
Ste. Genevieve	366	412	541	691	800
Saline	332	389	512	664	779
Scotland	369	380	501	620	730
Shannon	370	415	501	663	768
Stoddard	388	403	501	683	738
Sullivan	369	380	501	620	730
Texas	395	417	501	690	795
Wayne	415	416	501	696	748
Wright	367	385	501	632	651
St. Clair	326	388	501	695	720
St. Francois	433	436	524	732	761
Schuyler	369	380	501	620	730
Scott	415	416	521	650	768
Shelby	369	380	501	620	730
Stone	370	431	569	746	821
Taney	475	476	601	717	912
Vernon	349	415	502	703	725
Worth	402	403	501	624	772

MONTANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	413	490	634	855	1030	Carbon, Yellowstone
Great Falls, MT MSA	376	453	581	786	946	Cascade
Missoula, MT MSA	487	561	708	918	1098	Missoula

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	456	531	698	903	1094
Blaine	368	439	557	742	848
Carter	451	467	555	748	796
Custer	362	502	555	808	836
Dawson	451	467	555	748	796
Fallon	451	467	555	748	796
Flathead	411	505	634	896	1099
Garfield	451	467	555	748	796
Golden Valley	451	467	555	748	796
Hill	361	445	555	800	850
Judith Basin	368	439	557	742	848
Lewis and Clark	438	501	626	909	938
Lincoln	393	482	603	835	935
Madison	456	531	698	903	1094
Mineral	487	552	692	887	1062
Park	434	506	665	795	1051
Phillips	451	467	555	748	796
Powder River	451	467	555	748	796
Prairie	451	467	555	748	796
Richland	451	467	555	748	796
Rosebud	412	428	555	685	730
Sheridan	451	467	555	748	796
Stillwater	451	467	555	748	796
Teton	368	439	557	742	848
Big Horn	414	431	555	688	733
Broadwater	406	466	592	800	860
Chouteau	368	439	557	742	848
Daniels	451	467	555	748	796
Deer Lodge	406	466	592	800	860
Fergus	405	422	555	672	716
Gallatin	464	552	718	959	1258
Glacier	368	439	557	742	848
Granite	406	466	592	800	860
Jefferson	406	466	592	800	860
Lake	484	486	589	794	855
Liberty	368	439	557	742	848
McCone	451	467	555	748	796
Meagher	456	531	698	903	1094
Musselshell	451	467	555	748	796
Petroleum	451	467	555	748	796
Pondera	368	439	557	742	848
Powell	406	466	592	800	860
Ravalli	462	503	646	846	1001
Roosevelt	451	467	555	748	796
Sanders	393	482	603	835	935
Silver Bow	401	431	555	725	794
Sweet Grass	451	467	555	748	796
Toole	368	439	557	742	848

MONTANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Treasure	451	467	555	748	796
Wheatland	451	467	555	748	796
Valley	451	467	555	748	796
Wibaux	451	467	555	748	796

NEBRASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE HMFA	450	505	643	902	1093	Lancaster
Omaha-Council Bluffs, NE-IA HMFA	501	569	710	948	975	Cass, Douglas, Sarpy, Washington
Saunders County, NE HMFA	518	521	625	911	939	Saunders
Seward County, NE HMFA	341	422	527	700	889	Seward
Sioux City, IA-NE-SD MSA	413	485	636	801	824	Dakota, Dixon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	367	428	563	712	733
Arthur	398	460	527	696	717
Blaine	440	441	529	654	762
Box Butte	394	400	527	690	820
Brown	394	400	527	684	820
Burt	438	439	527	660	682
Cedar	438	439	527	660	682
Cherry	394	400	527	684	820
Clay	371	434	571	730	848
Cuming	438	439	527	660	682
Dawes	341	402	527	631	785
Deuel	394	400	527	684	820
Dundy	398	460	527	696	717
Franklin	371	434	571	730	848
Furnas	398	460	527	696	717
Garden	394	400	527	684	820
Gosper	398	460	527	696	717
Greeley	440	441	529	654	762
Hamilton	440	441	529	654	762
Hayes	398	460	527	696	717
Holt	394	400	527	684	820
Howard	440	441	529	654	762
Johnson	437	438	527	668	700
Keith	398	460	527	696	717
Kimball	394	400	527	684	820
Lincoln	385	433	551	676	851
Loup	440	441	529	654	762
Madison	390	412	541	737	761
Morrill	394	400	527	684	820
Nemaha	437	438	527	668	700
Antelope	438	439	527	660	682
Banner	394	400	527	684	820
Boone	438	439	527	660	682
Boyd	394	400	527	684	820
Buffalo	397	464	611	831	966
Butler	437	438	527	668	700
Chase	398	460	527	696	717
Cheyenne	394	400	527	684	820
Colfax	438	439	527	660	682
Custer	440	441	529	654	762
Dawson	455	493	549	668	688
Dodge	417	489	643	768	937
Fillmore	437	438	527	668	700
Frontier	398	460	527	696	717
Gage	438	439	527	643	662
Garfield	440	441	529	654	762
Grant	398	460	527	696	717
Hall	445	446	559	699	904
Harlan	371	434	571	730	848
Hitchcock	398	460	527	696	717
Hooker	398	460	527	696	717
Jefferson	437	438	527	668	700
Kearney	371	434	571	730	848
Keya Paha	394	400	527	684	820
Knox	438	439	527	660	682
Logan	398	460	527	696	717
McPherson	398	460	527	696	717
Merrick	440	441	529	654	762
Nance	438	439	527	660	682
Nuckolls	371	434	571	730	848

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NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Otoe	437	440	527	653	685
Perkins	398	460	527	696	717
Pierce	438	439	527	660	682
Polk	437	438	527	668	700
Richardson	437	438	527	668	700
Saline	466	491	561	686	708
Sheridan	394	400	527	684	820
Sioux	394	400	527	684	820
Thayer	437	438	527	668	700
Thurston	438	439	527	660	682
Wayne	438	439	527	660	682
Wheeler	440	441	529	654	762

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pawnee	437	438	527	668	700
Phelps	371	434	571	730	848
Platte	438	440	527	769	792
Red Willow	364	475	527	767	791
Rock	394	400	527	684	820
Scotts Bluff	437	438	527	671	886
Sherman	440	441	529	654	762
Stanton	438	439	527	660	682
Thomas	398	460	527	696	717
Valley	440	441	529	654	762
Webster	371	434	571	730	848
York	371	439	574	696	837

NEVADA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Carson City, NV MSA	567	683	823	1199	1446	Carson
*Las Vegas-Paradise, NV MSA	719	843	996	1382	1680	Clark
Reno-Sparks, NV MSA	638	763	943	1370	1656	Storey, Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	612	614	771	975	1146
Elko	552	601	779	971	1250
Eureka	481	555	708	940	1040
Lander	481	555	708	940	1040
Lyon	507	570	750	1093	1126
Nye	429	596	662	965	994
White Pine	481	555	708	940	1040

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Douglas	640	788	957	1332	1477
Esmeralda	481	555	708	940	1040
Humboldt	484	568	745	892	918
Lincoln	481	555	708	940	1040
Mineral	481	555	708	940	1040
Pershing	481	555	708	940	1040

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston-Cambridge-Quincy, MA-NH HMFA	1086	1153	1353	1618	1778	Rockingham County towns of Seabrook town, South Hampton town
Hillsborough County, NH (part) HMFA	737	748	982	1431	1724	Hillsborough County towns of Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town
Lawrence, MA-NH HMFA	733	932	1127	1346	1387	Rockingham County towns of Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town
Manchester, NH HMFA	710	871	1042	1245	1283	Hillsborough County towns of Bedford town, Goffstown town, Manchester city, Weare town

NEW HAMPSHIRE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Nashua, NH HMFA	785	924	1155	1544	1653	Hillsborough County towns of Amherst town, Brookline town, Greenville town, Hollis town, Hudson town, Litchfield town, Mason town, Merrimack town, Milford town, Mont Vernon town, Nashua city, New Ipswich town, Pelham town, Wilton town
Portsmouth-Rochester, NH HMFA	684	808	1008	1331	1501	Rockingham County towns of Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town Strafford County towns of Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Middleton town, Milton town, New Durham town, Rochester city, Rollinsford town, Somersworth city, Strafford town
Western Rockingham County, NH HMFA	891	892	1073	1419	1462	Rockingham County towns of Auburn town, Candia town, Deerfield town, Londonderry town, Northwood town, Nottingham town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Belknap County, NH	584	718	897	1184	1522	Alton town, Barnstead town, Belmont town, Center Harbor town, Gilford town, Gilmanton town, Laconia city, Meredith town, New Hampton town, Sanbornton town, Tilton town
Carroll County, NH	647	683	901	1225	1505	Albany town, Bartlett town, Brookfield town, Chatham town, Conway town, Eaton town, Effingham town, Freedom town, Hale's location, Hart's Location town, Jackson town, Madison town, Moultonborough town, Ossipee town, Sandwich town, Tamworth town, Tuftonboro town, Wakefield town, Wolfeboro town
Cheshire County, NH	716	765	959	1157	1408	Alstead town, Chesterfield town, Dublin town, Fitzwilliam town, Gilsum town, Harrisville town, Hinsdale town, Jaffrey town, Keene city, Marlborough town, Marlow town, Nelson town, Richmond town, Rindge town, Roxbury town, Stoddard town, Sullivan town, Surry town, Swanzey town, Troy town, Walpole town, Westmoreland town, Winchester town
Coos County, NH	420	549	645	905	1016	Atkinson and Gilmanton Academy grant, Beans grant, Beans purchase, Berlin city, Cambridge township, Carroll town, Chandlers purchase, Clarksville town, Colebrook town, Columbia town, Crawfords purchase, Cutts grant, Dalton town, Dixs grant, Dixville township, Dummer town, Errol town, Ervings location, Gorham town, Greens grant, Hadleys purchase, Jefferson town, Kilkenny township, Lancaster town, Low and Burbanks grant, Martins location, Milan town, Millsfield township, Northumberland town, Odell township, Pinkhams grant, Pittsburg town, Randolph town, Sargents purchase, Second College grant, Shelburne town, Stark town, Stewartstown town, Stratford town, Success township,

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NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Grafton County, NH	636	700	887	1193	1258	Thompson and Meserves purchase, Wentworth location, Whitefield town Alexandria town, Ashland town, Bath town, Benton town, Bethlehem town, Bridgewater town, Bristol town, Campton town, Canaan town, Dorchester town, Easton town, Ellsworth town, Enfield town, Franconia town, Grafton town, Groton town, Hanover town, Haverhill town, Hebron town, Holderness town, Landaff town, Lebanon city, Lincoln town, Lisbon town, Littleton town, Livermore town, Lyman town, Lyme town, Monroe town, Orange town, Orford town, Piermont town, Plymouth town, Rumney town, Sugar Hill town, Thornton town, Warren town, Waterville Valley town, Wentworth town, Woodstock town
Merrimack County, NH	639	755	986	1218	1561	Allenstown town, Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hooksett town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town
Sullivan County, NH	540	655	834	1130	1221	Acworth town, Charlestown town, Claremont city, Cornish town, Croydon town, Goshen town, Grantham town, Langdon town, Lempster town, Newport town, Plainfield town, Springfield town, Sunapee town, Unity town, Washington town

NEW JERSEY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic City, NJ MSA	786	866	1033	1310	1469	Atlantic
Bergen-Passaic, NJ HMFA	1001	1120	1256	1551	1786	Bergen, Passaic
Jersey City, NJ HMFA	967	1022	1192	1445	1556	Hudson
Middlesex-Somerset-Hunterdon, NJ HMFA	1099	1139	1340	1682	1983	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ HMFA	887	1025	1251	1630	1769	Monmouth, Ocean
Newark, NJ HMFA	790	965	1103	1320	1460	Essex, Morris, Sussex, Union
Ocean City, NJ MSA	697	712	895	1172	1207	Cape May
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	682	781	932	1116	1327	Burlington, Camden, Gloucester, Salem
Trenton-Ewing, NJ MSA	810	932	1120	1338	1502	Mercer
Vineland-Millville-Bridgeton, NJ MSA	756	759	956	1162	1224	Cumberland
Warren County, NJ HMFA	769	861	1007	1205	1241	Warren

NEW MEXICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Albuquerque, NM MSA	511	602	760	1107	1327	Bernalillo, Sandoval, Torrance, Valencia
Farmington, NM MSA	455	481	579	765	863	San Juan
Las Cruces, NM MSA	438	473	527	727	807	Dona Ana

NEW MEXICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Santa Fe, NM MSA	586	727	884	1157	1383	Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	355	400	479	698	719	Chaves	382	384	490	641	661
Cibola	399	430	479	696	756	Colfax	423	453	509	642	668
Curry	399	413	479	649	843	De Baca	398	410	479	646	787
Eddy	319	408	479	643	781	Grant	383	444	504	710	730
Guadalupe	469	475	566	711	741	Harding	398	410	479	646	787
Hidalgo	355	400	479	698	719	Lea	397	432	479	630	663
Lincoln	374	470	573	721	1007	Los Alamos	596	694	911	1093	1126
Luna	398	432	479	611	733	McKinley	377	443	583	697	902
Mora	469	475	566	711	741	Otero	366	433	479	700	843
Quay	398	410	479	646	787	Rio Arriba	427	435	514	665	738
Roosevelt	397	408	479	664	821	San Miguel	401	432	532	707	821
Sierra	310	386	479	700	842	Socorro	399	399	479	574	813
Taos	569	619	685	820	845	Union	398	410	479	646	787

NEW YORK

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	672	697	851	1019	1113	Albany, Rensselaer, Saratoga, Schenectady, Schoharie
Binghamton, NY MSA	561	563	674	880	1032	Broome, Tioga
Buffalo-Niagara Falls, NY MSA	585	586	704	871	962	Erie, Niagara
Elmira, NY MSA	614	616	739	950	990	Chemung
Glens Falls, NY MSA	584	617	776	979	1103	Warren, Washington
Ithaca, NY MSA	741	763	893	1081	1121	Tompkins
Kingston, NY MSA	718	779	933	1182	1469	Ulster
Nassau-Suffolk, NY HMFA	1121	1295	1529	2029	2211	Nassau, Suffolk
New York, NY HMFA	1095	1185	1318	1621	1823	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland
Poughkeepsie-Newburgh-Middletown, NY MSA	767	901	1103	1352	1441	Dutchess, Orange
Rochester, NY MSA	572	632	773	928	983	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	590	592	713	913	988	Madison, Onondaga, Oswego
Utica-Rome, NY MSA	579	581	699	857	973	Herkimer, Oneida
Westchester County, NY Statutory Exception Area	1095	1306	1519	1832	2259	Westchester

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany	534	537	643	801	984	Cattaraugus	542	543	654	859	986
Cayuga	582	583	699	930	1080	Chautauqua	549	551	661	853	931
Chenango	546	550	659	830	1157	Clinton	617	619	742	942	1225
Columbia	674	688	811	980	1045	Cortland	587	589	719	914	1122
Delaware	554	556	667	824	1085	Essex	581	582	699	930	1011
Franklin	533	534	638	819	907	Fulton	456	557	704	843	895
Genesee	636	637	766	950	1075	Greene	582	629	766	996	1085
Hamilton	587	588	706	880	1019	Jefferson	606	607	730	941	988

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NEW YORK continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lewis	540	543	651	814	909	Montgomery	540	580	651	824	892
Otsego	573	586	689	916	952	St. Lawrence	541	543	653	827	903
Schuyler	589	592	710	946	978	Seneca	624	626	750	987	1249
Steuben	576	577	694	890	983	Sullivan	594	658	845	1011	1185
Wyoming	559	574	674	981	1071	Yates	573	581	690	894	920

NORTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anson County, NC HMFA	462	496	555	780	824	Anson
Asheville, NC HMFA	521	609	695	931	1220	Buncombe, Henderson, Madison
Burlington, NC MSA	599	619	722	980	1010	Alamance
Charlotte-Gastonia-Concord, NC-SC HMFA	615	667	740	932	1085	Cabarrus, Gaston, Mecklenburg, Union
Durham, NC HMFA	518	710	796	1040	1122	Chatham, Durham, Orange
Fayetteville, NC HMFA	546	591	660	937	1109	Cumberland
Goldsboro, NC MSA	423	501	587	735	982	Wayne
Greene County, NC HMFA	461	462	555	784	810	Greene
Greensboro-High Point, NC HMFA	565	645	719	911	974	Guilford, Randolph
Greenville, NC HMFA	488	506	624	865	893	Pitt
Haywood County, NC HMFA	494	495	617	799	1034	Haywood
Hickory-Lenoir-Morganton, NC MSA	495	520	598	767	893	Alexander, Burke, Caldwell, Catawba
Hoke County, NC HMFA	507	551	610	835	1018	Hoke
Jacksonville, NC MSA	501	537	603	847	994	Onslow
Pender County, NC HMFA	501	503	605	796	818	Pender
Person County, NC HMFA	485	487	587	701	804	Person
Raleigh-Cary, NC MSA	639	717	797	1002	1038	Franklin, Johnston, Wake
Rockingham County, NC HMFA	454	480	569	707	729	Rockingham
Rocky Mount, NC MSA	361	436	555	689	710	Edgecombe, Nash
*Virginia Beach-Norfolk-Newport News, VA-NC MSA	749	787	904	1247	1561	Currituck
Wilmington, NC HMFA	575	635	767	1075	1105	Brunswick, New Hanover
Winston-Salem, NC MSA	494	563	652	889	1045	Davie, Forsyth, Stokes, Yadkin

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	413	485	555	728	750	Ashe	460	461	555	734	867
Avery	432	533	630	753	890	Beaufort	361	471	555	668	687
Bertie	380	482	555	664	685	Bladen	361	438	555	809	874
Camden	415	541	639	863	884	Carteret	514	514	618	900	1084
Caswell	471	472	577	705	736	Cherokee	361	467	555	806	972
Chowan	415	541	639	863	884	Clay	461	463	555	728	848
Cleveland	552	553	665	876	984	Columbus	389	500	555	665	684
Craven	470	535	614	828	1034	Dare	636	637	781	1032	1062
Davidson	483	484	583	760	868	Duplin	461	498	555	702	724
Gates	415	541	639	863	884	Graham	461	463	555	728	848
Granville	518	519	624	779	926	Halifax	361	501	555	706	810
Harnett	479	520	577	779	1013	Hertford	361	498	555	728	749

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hyde	415	541	639	863	884
Jackson	486	504	599	786	812
Lee	411	563	635	780	1114
Lincoln	391	541	602	727	748
Macon	426	463	597	725	1047
Mitchell	432	533	630	753	890
Moore	516	517	651	936	1142
Pamlico	371	472	555	699	719
Perquimans	415	541	639	863	884
Richmond	399	500	555	698	719
Rowan	533	578	641	915	977
Sampson	461	471	555	771	977
Stanly	437	472	577	786	855
Swain	461	463	555	728	848
Tyrrell	415	541	639	863	884
Warren	477	478	573	700	720
Watauga	467	571	718	873	1127
Wilson	530	531	644	771	817

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Iredell	565	569	681	902	1177
Jones	473	512	612	847	1077
Lenoir	422	424	557	666	956
McDowell	404	482	623	769	791
Martin	461	489	555	719	739
Montgomery	460	500	555	692	975
Northampton	362	489	555	706	726
Pasquotank	411	531	631	916	943
Polk	520	522	640	800	825
Robeson	396	478	555	666	741
Rutherford	509	511	625	748	771
Scotland	464	466	590	717	893
Surry	415	499	555	741	763
Transylvania	462	643	712	899	948
Vance	464	465	560	671	692
Washington	392	528	602	722	742
Wilkes	406	465	555	712	741
Yancey	460	461	555	663	683

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	409	428	532	770	792	Burleigh, Morton
Fargo, ND-MN MSA	394	468	595	859	992	Cass
Grand Forks, ND-MN MSA	382	480	589	746	1014	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	341	397	487	645	674
Benson	398	400	487	672	847
Bottineau	371	408	507	714	778
Burke	371	408	507	714	778
Dickey	398	400	487	672	847
Dunn	341	397	487	645	674
Emmons	371	408	507	714	778
Golden Valley	341	397	487	645	674
Griggs	398	400	487	672	847
Kidder	371	408	507	714	778
Logan	371	408	507	714	778
McIntosh	371	408	507	714	778
McLean	371	408	507	714	778
Mountrail	371	408	507	714	778
Oliver	341	397	487	645	674

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barnes	404	406	487	681	856
Billings	341	397	487	645	674
Bowman	341	397	487	645	674
Cavalier	398	400	487	672	847
Divide	341	397	487	645	674
Eddy	398	400	487	672	847
Foster	398	400	487	672	847
Grant	341	397	487	645	674
Hettinger	341	397	487	645	674
LaMoure	398	400	487	672	847
McHenry	371	408	507	714	778
McKenzie	341	397	487	645	674
Mercer	341	397	487	645	674
Nelson	378	469	560	758	841
Pembina	378	469	560	758	841

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NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pierce	371	408	507	714	778
Ransom	398	400	487	672	847
Richland	330	397	503	653	775
Sargent	398	400	487	672	847
Sioux	341	397	487	645	674
Stark	346	421	487	709	856
Stutsman	405	407	487	674	856
Traill	378	469	560	758	841
Ward	318	396	487	673	798
Williams	317	387	487	641	680

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ramsey	361	372	489	609	771
Renville	371	408	507	714	778
Rolette	371	408	507	714	778
Sheridan	371	408	507	714	778
Slope	341	397	487	645	674
Steele	378	469	560	758	841
Towner	398	400	487	672	847
Walsh	378	469	560	758	841
Wells	398	400	487	672	847

OHIO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH MSA	496	580	743	945	974	Portage, Summit
Brown County, OH HMFA	432	453	598	771	930	Brown
Canton-Massillon, OH MSA	446	495	625	789	836	Carroll, Stark
Cincinnati-Middleton, OH-KY-IN HMFA	473	560	726	972	1009	Butler, Clermont, Hamilton, Warren
Cleveland-Elyria-Mentor, OH MSA	518	602	725	929	987	Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH HMFA	488	568	718	903	982	Delaware, Fairfield, Franklin, Licking, Madison, Morrow, Pickaway
Dayton, OH HMFA	482	551	678	913	1089	Greene, Miami, Montgomery
Huntington-Ashland, WV-KY-OH MSA	396	468	562	693	716	Lawrence
Lima, OH MSA	466	472	584	720	739	Allen
Mansfield, OH MSA	384	468	590	766	797	Richland
Parkersburg-Marietta-Vienna, WV-OH MSA	407	435	557	740	798	Washington
Preble County, OH HMFA	503	519	630	816	845	Preble
Sandusky, OH MSA	420	506	646	843	887	Erie
Springfield, OH MSA	469	522	628	812	1043	Clark
Toledo, OH MSA	476	530	656	846	922	Fulton, Lucas, Ottawa, Wood
Union County, OH HMFA	612	613	736	881	908	Union
Weirton-Steubenville, WV-OH MSA	367	450	555	693	753	Jefferson
Wheeling, WV-OH MSA	361	435	555	698	814	Belmont
Youngstown-Warren-Boardman, OH HMFA	433	485	587	739	797	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	451	468	555	735	776
Ashtabula	418	491	626	796	927
Auglaize	417	448	587	763	784
Clinton	442	546	605	881	1035
Coshocton	386	466	555	718	819
Darke	360	461	555	739	760
Fayette	456	525	641	772	1029
Guernsey	390	482	555	733	754
Hardin	461	501	555	695	911
Henry	389	477	577	743	765

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	402	479	621	801	824
Athens	472	513	569	732	761
Champaign	397	485	611	753	810
Columbiana	455	480	580	717	872
Crawford	458	465	555	715	783
Defiance	429	492	597	753	917
Gallia	377	501	555	706	927
Hancock	426	497	645	877	931
Harrison	370	442	555	710	731
Highland	471	472	567	764	789

OHIO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hocking	360	501	555	792	815
Huron	418	506	618	857	944
Knox	502	506	607	777	890
Marion	411	519	634	804	978
Mercer	362	470	555	748	770
Morgan	461	462	555	682	762
Noble	461	462	555	682	762
Perry	471	472	567	709	730
Putnam	399	441	581	721	752
Sandusky	505	517	608	756	826
Seneca	420	440	569	715	736
Tuscarawas	381	445	587	743	765
Vinton	405	500	555	760	946
Williams	471	477	592	784	866

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Holmes	461	462	555	732	776
Jackson	481	483	579	694	716
Logan	518	523	622	782	808
Meigs	461	500	555	760	783
Monroe	461	462	555	682	762
Muskingum	450	461	555	711	896
Paulding	408	446	555	724	746
Pike	370	476	569	682	709
Ross	426	483	564	697	800
Scioto	444	465	555	729	871
Shelby	474	484	630	786	871
Van Wert	361	432	555	675	698
Wayne	424	527	649	776	848
Wyandot	461	462	555	761	784

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fort Smith, AR-OK HMFA	378	430	535	713	776	Sequoyah
Grady County, OK HMFA	379	422	525	710	816	Grady
Lawton, OK MSA	425	458	576	842	1012	Comanche
Le Flore County, OK HMFA	355	414	525	649	795	Le Flore
Lincoln County, OK HMFA	434	436	525	691	713	Lincoln
Oklahoma City, OK HMFA	483	528	641	865	928	Canadian, Cleveland, Logan, McClain, Oklahoma
Okmulgee County, OK HMFA	354	398	525	712	757	Okmulgee
Pawnee County, OK HMFA	438	452	525	680	700	Pawnee
Tulsa, OK HMFA	501	545	666	880	908	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	438	439	525	626	645
Atoka	380	426	525	683	796
Beckham	437	473	525	687	921
Bryan	426	428	525	679	809
Carter	463	493	558	694	743
Choctaw	434	470	525	744	767
Coal	380	426	525	683	796
Craig	355	414	545	653	958
Delaware	377	424	525	705	727
Ellis	437	452	525	713	735
Garvin	340	397	525	690	841
Greer	407	422	525	706	739
Harper	437	452	525	713	735
Hughes	424	483	576	734	755
Jefferson	399	431	544	787	922

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	437	452	525	713	735
Beaver	437	452	525	713	735
Blaine	437	452	525	713	735
Caddo	361	400	525	628	785
Cherokee	425	457	529	664	764
Cimarron	437	452	525	713	735
Cotton	399	431	544	787	922
Custer	405	406	525	751	773
Dewey	437	452	525	713	735
Garfield	431	454	546	756	778
Grant	437	452	525	713	735
Harmon	407	422	525	706	739
Haskell	341	410	525	661	725
Jackson	361	469	526	738	761
Johnston	380	426	525	683	796

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OKLAHOMA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Kay	356	441	548	757	782	Kingfisher	437	452	525	738	759
Kiowa	407	422	525	706	739	Latimer	341	410	525	661	725
Love	380	426	525	683	796	McCurtain	341	397	525	681	704
McIntosh	388	440	526	658	746	Major	437	452	525	713	735
Marshall	380	426	525	683	796	Mayes	341	473	525	657	751
Murray	437	438	525	706	904	Muskogee	397	468	555	702	775
Noble	383	445	536	745	768	Nowata	400	423	525	700	790
Okfuskee	424	483	576	734	755	Ottawa	438	439	525	716	738
Payne	465	533	653	925	952	Pittsburg	358	418	551	694	846
Pontotoc	369	412	525	716	738	Pottawatomie	456	518	576	730	847
Pushmataha	341	410	525	661	725	Roger Mills	407	422	525	706	739
Seminole	341	421	525	631	649	Stephens	344	398	525	717	740
Texas	408	489	551	697	834	Tillman	399	431	544	787	922
Washington	434	435	530	742	817	Washita	407	422	525	706	739
Woods	390	417	525	763	787	Woodward	364	426	525	655	675

OREGON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bend, OR MSA	529	614	732	1067	1099	Deschutes
Corvallis, OR MSA	496	601	749	1088	1252	Benton
Eugene-Springfield, OR MSA	495	600	760	1063	1183	Lane
Medford, OR MSA	489	581	730	1062	1094	Jackson
Portland-Vancouver-Beaverton, OR-WA MSA	565	655	757	1102	1324	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR MSA	478	531	635	923	1113	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	387	450	594	864	890	Clatsop	437	544	672	972	1003
Coos	422	512	649	861	992	Crook	416	535	640	866	1014
Curry	477	548	647	945	1141	Douglas	412	491	634	860	1064
Gilliam	448	524	633	858	1003	Grant	448	524	633	858	1003
Harney	400	466	586	810	861	Hood River	449	556	692	985	1016
Jefferson	497	530	600	872	982	Josephine	482	552	667	948	1053
Klamath	398	467	595	832	925	Lake	400	466	586	810	861
Lincoln	497	567	723	1002	1131	Linn	475	576	718	990	1226
Malheur	424	484	589	852	876	Morrow	448	524	633	858	1003
Sherman	448	524	633	858	1003	Tillamook	460	550	707	988	1018
Umatilla	416	475	607	852	951	Union	397	462	610	890	916
Wallowa	394	459	605	866	930	Wasco	461	516	643	914	1131
Wheeler	448	524	633	858	1003						

PENNSYLVANIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA HMFA	566	690	816	1056	1117	Carbon, Lehigh, Northampton
Altoona, PA MSA	439	480	581	761	786	Blair
Armstrong County, PA HMFA	454	494	546	699	917	Armstrong
Erie, PA MSA	433	489	631	755	858	Erie
Harrisburg-Carlisle, PA MSA	502	573	722	911	944	Cumberland, Dauphin, Perry
Johnstown, PA MSA	437	444	546	687	787	Cambria
Lancaster, PA MSA	489	581	715	907	953	Lancaster
Lebanon, PA MSA	418	499	643	873	900	Lebanon
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	682	781	932	1116	1327	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pike County, PA HMFA	766	797	923	1250	1530	Pike
Pittsburgh, PA HMFA	507	557	666	828	894	Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland
Reading, PA MSA	519	580	715	956	986	Berks
Scranton--Wilkes-Barre, PA MSA	438	522	627	795	840	Lackawanna, Luzerne, Wyoming
Sharon, PA HMFA	457	478	583	714	785	Mercer
State College, PA MSA	600	669	788	942	971	Centre
Williamsport, PA MSA	424	487	587	771	792	Lycoming
York-Hanover, PA MSA	489	562	713	861	893	York

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	513	560	670	902	1000	Bedford	416	472	546	652	867
Bradford	355	476	546	683	836	Cameron	456	473	548	727	781
Clarion	454	493	546	697	728	Clearfield	416	459	546	783	923
Clinton	493	495	596	713	733	Columbia	441	484	589	753	893
Crawford	435	482	546	725	828	Elk	455	475	546	708	856
Forest	455	483	546	708	728	Franklin	425	483	610	803	984
Fulton	364	464	546	673	787	Greene	453	483	546	652	672
Huntingdon	355	440	546	705	726	Indiana	485	505	584	697	763
Jefferson	371	459	546	723	745	Juniata	421	456	549	746	770
Lawrence	397	519	610	730	856	McKean	459	483	551	738	794
Mifflin	384	445	546	709	887	Monroe	559	690	862	1101	1232
Montour	488	561	645	771	796	Northumberland	375	489	546	676	701
Potter	454	492	546	723	744	Schuylkill	364	474	546	682	750
Snyder	380	498	586	733	791	Somerset	454	454	546	671	710
Sullivan	361	483	554	694	827	Susquehanna	444	483	566	680	750
Tioga	468	514	572	752	803	Union	524	546	631	829	892
Venango	419	458	546	690	782	Warren	355	456	546	709	750
Wayne	531	533	670	837	943						

RHODE ISLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Newport-Middleton-Portsmouth, RI HMFA	774	945	1168	1586	2050	Newport County towns of Middletown town, Newport city, Portsmouth town
*Providence-Fall River, RI-MA HMFA	800	874	1020	1221	1556	Bristol County towns of Barrington town, Bristol town, Warren town

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

RHODE ISLAND continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kent County towns of Coventry town, East Greenwich town, Warwick city, West Greenwich town, West Warwick town Newport County towns of Jamestown town, Little Compton town, Tiverton town Providence County towns of Burrillville town, Central Falls city, Cranston city, Cumberland town, East Providence city, Foster town, Glocester town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Pawtucket city, Providence city, Scituate town, Smithfield town, Woonsocket city Washington County towns of Charlestown town, Exeter town, Narragansett town, North Kingstown town, Richmond town, South Kingstown town
Westerly-Hopkinton-New Shoreham, RI HMFA.....	656	825	965	1153	1505	Washington County towns of Hopkinton town, New Shoreham town, Westerly town

SOUTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, SC MSA.....	408	530	602	762	784	Anderson
Augusta-Richmond County, GA-SC MSA.....	537	582	654	876	921	Aiken, Edgefield
Charleston-North Charleston, SC MSA.....	657	728	823	1072	1248	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Concord, NC-SC HMFA.....	615	667	740	932	1085	York
Columbia, SC HMFA.....	570	621	692	855	882	Calhoun, Fairfield, Lexington, Richland, Saluda
Darlington County, SC HMFA.....	352	452	543	652	703	Darlington
Florence, SC HMFA.....	421	473	548	658	825	Florence
Greenville-Mauldin-Easley, SC MSA.....	537	583	649	857	881	Greenville, Pickens
Kershaw County, SC HMFA.....	366	460	566	711	826	Kershaw
Laurens County, SC HMFA.....	482	524	580	733	856	Laurens
Myrtle Beach-Conway-North Myrtle Beach, SC MSA....	603	663	774	925	1121	Horry
Spartanburg, SC MSA.....	522	540	631	794	817	Spartanburg
Sumter, SC MSA.....	468	508	563	723	766	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville.....	352	489	543	659	679	Allendale.....	452	489	543	674	872
Bamberg.....	451	452	543	724	746	Barnwell.....	450	473	543	654	845
Beaufort.....	639	768	869	1059	1125	Cherokee.....	445	446	544	651	691
Chester.....	465	466	559	668	710	Chesterfield.....	384	478	543	649	953
Clarendon.....	472	473	568	680	775	Colleton.....	352	439	543	768	788
Dillon.....	451	459	543	679	746	Georgetown.....	531	532	641	830	1003
Greenwood.....	478	499	574	833	859	Hampton.....	451	459	543	670	760
Jasper.....	499	541	603	719	816	Lancaster.....	368	464	543	747	822
Lee.....	371	454	543	668	836	McCormick.....	455	477	548	758	783
Marion.....	449	450	543	659	677	Marlboro.....	451	452	543	685	812
Newberry.....	449	489	543	690	850	Oconee.....	356	417	547	678	963
Orangeburg.....	451	489	543	674	836	Union.....	451	452	543	750	842

SOUTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Williamsburg	472	473	568	680	775

SOUTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Meade County, SD HMFA	338	404	523	760	849	Meade
Rapid City, SD HMFA	477	556	700	927	953	Pennington
Sioux City, IA-NE-SD MSA	413	485	636	801	824	Union
Sioux Falls, SD MSA	486	511	653	853	944	Lincoln, McCook, Minnehaha, Turner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	335	390	513	657	702	Beadle	427	428	513	746	846
Bennett	387	402	513	686	763	Bon Homme	335	390	513	657	702
Brookings	334	419	515	727	905	Brown	375	402	529	671	798
Brule	335	390	513	657	702	Buffalo	335	390	513	657	702
Butte	387	402	513	686	763	Campbell	373	390	513	677	805
Charles Mix	335	390	513	657	702	Clark	343	399	513	694	818
Clay	391	416	547	754	960	Codington	379	442	582	752	859
Corson	387	402	513	686	763	Custer	387	402	513	686	763
Davison	352	414	543	697	749	Day	373	390	513	677	805
Deuel	343	399	513	694	818	Dewey	387	402	513	686	763
Douglas	335	390	513	657	702	Edmunds	373	390	513	677	805
Fall River	380	396	520	674	750	Faulk	373	390	513	677	805
Grant	343	399	513	694	818	Gregory	335	390	513	657	702
Haakon	387	402	513	686	763	Hamlin	343	399	513	694	818
Hand	373	390	513	677	805	Hanson	335	390	513	657	702
Harding	387	402	513	686	763	Hughes	341	428	528	662	683
Hutchinson	335	390	513	657	702	Hyde	335	390	513	657	702
Jackson	387	402	513	686	763	Jerauld	373	390	513	677	805
Jones	387	402	513	686	763	Kingsbury	343	399	513	694	818
Lake	343	399	513	694	818	Lawrence	363	440	542	755	806
Lyman	335	390	513	657	702	McPherson	373	390	513	677	805
Marshall	373	390	513	677	805	Mellette	387	402	513	686	763
Miner	343	399	513	694	818	Moody	343	399	513	694	818
Perkins	387	402	513	686	763	Potter	387	402	513	686	763
Roberts	373	390	513	677	805	Sanborn	335	390	513	657	702
Shannon	387	402	513	686	763	Spink	373	390	513	677	805
Stanley	335	390	513	657	702	Sully	335	390	513	657	702
Todd	387	402	513	686	763	Tripp	335	390	513	657	702
Walworth	373	390	513	677	805	Yankton	360	427	555	728	748
Ziebach	387	402	513	686	763						

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TENNESSEE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	513	543	639	787	925	Hamilton, Marion, Sequatchie
Clarksville, TN-KY HMFA	518	539	626	905	931	Montgomery
Cleveland, TN MSA	439	448	577	724	920	Bradley, Polk
Hickman County, TN HMFA	337	468	519	757	780	Hickman
Jackson, TN MSA	472	515	650	870	894	Chester, Madison
Johnson City, TN MSA	365	441	547	679	847	Carter, Unicoi, Washington
Kingsport-Bristol-Bristol, TN-VA MSA	401	431	535	717	857	Hawkins, Sullivan
Knoxville, TN MSA	457	525	633	848	875	Anderson, Blount, Knox, Loudon, Union
Macon County, TN HMFA	326	396	501	597	663	Macon
Memphis, TN-MS-AR HMFA	615	669	743	990	1021	Fayette, Shelby, Tipton
Morristown, TN MSA	429	431	517	678	764	Grainger, Hamblen, Jefferson
Nashville-Davidson--Murfreesboro--Franklin, TN MSA	551	629	723	938	965	Cannon, Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, Wilson
Smith County, TN HMFA	432	433	519	692	715	Smith
Stewart County, TN HMFA	335	436	515	702	724	Stewart

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	410	501	630	789	812	Benton	395	396	501	619	680
Bledsoe	328	411	501	658	678	Campbell	416	417	501	645	768
Carroll	415	416	501	618	690	Claiborne	326	415	501	670	752
Clay	405	406	501	650	669	Cocke	327	403	501	600	818
Coffee	449	450	540	732	800	Crockett	416	452	501	653	674
Cumberland	415	416	501	710	879	Decatur	375	412	501	644	733
DeKalb	416	417	501	723	747	Dyer	339	398	522	696	760
Fentress	405	406	501	650	669	Franklin	344	413	531	772	930
Gibson	410	420	501	629	696	Giles	353	415	548	659	678
Greene	325	410	501	679	697	Grundy	328	411	501	658	678
Hancock	415	416	501	641	772	Hardeman	362	449	501	678	879
Hardin	367	409	501	664	684	Haywood	421	436	571	682	750
Henderson	352	466	544	648	669	Henry	328	384	505	604	735
Houston	395	396	501	619	680	Humphreys	416	451	501	714	737
Jackson	405	406	501	650	669	Johnson	325	404	501	672	704
Lake	372	416	501	650	689	Lauderdale	440	441	531	645	666
Lawrence	345	387	501	620	707	Lewis	335	390	503	641	660
Lincoln	415	416	501	612	630	McMinn	442	443	533	637	850
McNairy	326	383	501	723	745	Marshall	405	430	564	678	851
Maury	433	540	666	848	873	Meigs	328	411	501	658	678
Monroe	395	396	503	602	768	Moore	440	441	528	697	719
Morgan	413	414	501	627	730	Obion	344	415	501	661	696
Overton	327	411	501	612	630	Perry	335	390	503	641	660
Pickett	405	406	501	650	669	Putnam	418	419	522	751	806
Rhea	325	401	501	665	684	Roane	440	455	528	706	725
Scott	416	424	501	663	882	Sevier	504	546	615	740	1081
Van Buren	405	406	501	650	669	Warren	406	411	529	709	843

TENNESSEE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wayne	335	390	503	641	660
White	375	381	501	708	727

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Weakley	364	447	501	733	883

TEXAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	452	476	600	781	988	Callahan, Jones, Taylor
Amarillo, TX MSA	462	501	625	861	965	Armstrong, Carson, Potter, Randall
Aransas County, TX HMFA	412	512	609	888	915	Aransas
Atascosa County, TX HMFA	358	417	550	695	715	Atascosa
Austin County, TX HMFA	549	550	662	878	906	Austin
*Austin-Round Rock, TX MSA	672	766	935	1272	1471	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	481	539	645	800	829	Hardin, Jefferson, Orange
Brazoria County, TX HMFA	537	599	688	949	1019	Brazoria
Brownsville-Harlingen, TX MSA	423	488	559	691	781	Cameron
Calhoun County, TX HMFA	391	463	594	748	1002	Calhoun
College Station-Bryan, TX MSA	563	637	778	986	1016	Brazos, Burleson, Robertson
Corpus Christi, TX HMFA	595	612	759	1042	1135	Nueces, San Patricio
*Dallas, TX HMFA	645	718	871	1156	1401	Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	444	476	567	813	964	El Paso
*Fort Worth-Arlington, TX HMFA	653	699	861	1168	1312	Johnson, Parker, Tarrant
*Houston-Baytown-Sugar Land, TX HMFA	631	702	852	1136	1428	Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, Waller
Kendall County, TX HMFA	729	730	878	1278	1542	Kendall
Killeen-Temple-Fort Hood, TX HMFA	493	545	692	1007	1213	Bell, Coryell
Lampasas County, TX HMFA	358	455	550	802	940	Lampasas
Laredo, TX MSA	475	521	623	814	1067	Webb
Longview, TX HMFA	504	530	608	832	856	Gregg, Upshur
Lubbock, TX MSA	437	532	672	952	982	Crosby, Lubbock
McAllen-Edinburg-Mission, TX MSA	470	516	609	730	839	Hidalgo
Medina County, TX HMFA	486	540	635	759	924	Medina
Midland, TX MSA	427	462	608	886	1049	Midland
Odessa, TX MSA	396	420	550	793	921	Ector
Rusk County, TX HMFA	471	472	566	678	697	Rusk
San Angelo, TX MSA	428	494	629	899	983	Irion, Tom Green
San Antonio, TX HMFA	568	632	780	1006	1222	Bandera, Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	555	585	687	903	1044	Grayson
Texarkana, TX-Texarkana, AR MSA	476	481	592	722	786	Bowie
Tyler, TX MSA	504	592	667	914	998	Smith
Victoria, TX HMFA	452	521	667	830	983	Goliad, Victoria
Waco, TX MSA	551	552	686	859	887	McLennan
Wichita Falls, TX MSA	496	522	621	872	897	Archer, Clay, Wichita
Wise County, TX HMFA	502	503	605	739	822	Wise

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	490	514	592	779	1022
Angelina	469	535	598	774	798
Baylor	373	442	550	701	832

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Andrews	456	469	550	736	822
Bailey	424	472	550	716	907
Bee	458	459	550	739	827

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TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Blanco	437	470	594	780	893
Bosque	457	458	550	668	801
Briscoe	448	450	550	733	756
Brown	437	475	599	761	874
Camp	460	462	567	774	798
Castro	448	450	550	733	756
Childress	448	450	550	733	756
Coke	429	494	628	904	985
Collingsworth	448	450	550	733	756
Comanche	445	478	566	721	786
Cooke	505	507	639	789	812
Crane	456	483	550	714	848
Culberson	456	483	550	714	848
Dawson	454	455	550	710	733
DeWitt	407	422	550	718	777
Dimmit	451	453	550	749	888
Duval	380	477	550	733	780
Edwards	451	453	550	749	888
Falls	362	494	556	709	736
Fayette	454	515	624	775	798
Floyd	424	472	550	716	907
Franklin	412	474	572	701	843
Frio	442	542	659	834	992
Garza	424	472	550	716	907
Glasscock	454	455	550	710	733
Gray	425	426	550	690	712
Hale	370	468	550	674	752
Hamilton	437	470	594	780	893
Hardeman	373	442	550	701	832
Hartley	448	450	550	733	756
Hemphill	448	450	550	733	756
Hill	358	496	550	779	850
Hood	548	594	661	873	1159
Houston	529	568	637	762	826
Hudspeth	456	483	550	714	848
Jack	373	442	550	701	832
Jasper	457	458	550	680	787
Jim Hogg	457	491	550	786	875
Karnes	408	420	550	720	779
Kent	425	426	550	787	854
Kimble	454	455	550	710	733
Kinney	451	453	550	749	888

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Borden	454	455	550	710	733
Brewster	400	418	550	658	713
Brooks	457	491	550	786	875
Burnet	447	523	687	864	889
Cass	359	495	550	755	889
Cherokee	447	490	550	735	765
Cochran	424	472	550	716	907
Coleman	437	470	594	780	893
Colorado	439	485	550	727	747
Concho	454	455	550	710	733
Cottle	373	442	550	701	832
Crockett	454	455	550	710	733
Dallam	410	450	594	710	728
Deaf Smith	358	456	550	799	910
Dickens	424	472	550	716	907
Donley	448	450	550	733	756
Eastland	445	478	566	721	786
Erath	443	481	600	732	754
Fannin	478	482	574	716	737
Fisher	425	426	550	787	854
Foard	373	442	550	701	832
Freestone	362	494	556	727	749
Gaines	457	487	550	714	855
Gillespie	465	543	714	989	1018
Gonzales	377	430	550	800	823
Grimes	488	535	596	776	799
Hall	448	450	550	733	756
Hansford	448	450	550	733	756
Harrison	440	444	584	755	777
Haskell	425	426	550	787	854
Henderson	453	468	616	808	833
Hockley	428	455	550	763	787
Hopkins	410	473	578	733	1014
Howard	456	460	550	772	794
Hutchinson	458	460	551	660	820
Jackson	358	463	550	670	967
Jeff Davis	456	483	550	714	848
Jim Wells	368	494	550	731	754
Kenedy	457	491	550	786	875
Kerr	552	597	672	867	894
King	424	472	550	716	907
Kleberg	471	504	566	826	996

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	373	442	550	701	832
Lamb	424	472	550	716	907
Lavaca	439	485	550	727	747
Leon	488	535	596	776	799
Lipscomb	448	450	550	733	756
Llano	567	571	751	898	925
Lynn	424	472	550	716	907
McMullen	380	477	550	733	780
Marion	460	462	567	774	798
Mason	454	455	550	710	733
Maverick	458	459	550	799	824
Milam	358	442	550	712	756
Mitchell	425	426	550	787	854
Moore	388	477	550	801	824
Motley	424	472	550	716	907
Navarro	513	522	631	767	791
Nolan	427	428	550	709	964
Oldham	448	450	550	733	756
Panola	458	496	550	669	966
Pecos	454	496	550	667	807
Presidio	456	483	550	714	848
Reagan	454	455	550	710	733
Red River	412	474	572	701	843
Refugio	380	477	550	733	780
Runnels	454	455	550	710	733
San Augustine	455	457	550	715	964
Schleicher	454	455	550	710	733
Shackelford	425	426	550	787	854
Sherman	448	450	550	733	756
Starr	457	497	550	802	969
Sterling	454	455	550	710	733
Sutton	454	455	550	710	733
Terrell	456	483	550	714	848
Throckmorton	425	426	550	787	854
Trinity	529	568	637	762	826
Upton	454	455	550	710	733
Val Verde	391	468	552	687	800
Walker	543	581	702	903	1170
Washington	521	592	656	920	950
Wheeler	448	450	550	733	756
Willacy	457	496	550	800	891
Wood	413	417	550	801	964

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	412	477	599	755	843
La Salle	451	453	550	749	888
Lee	440	501	556	761	785
Limestone	358	498	550	704	729
Live Oak	380	477	550	733	780
Loving	456	483	550	714	848
McCulloch	457	458	550	801	826
Madison	488	535	596	776	799
Martin	454	455	550	710	733
Matagorda	358	470	550	801	966
Menard	454	455	550	710	733
Mills	437	470	594	780	893
Montague	416	531	592	747	1038
Morris	412	474	572	701	843
Nacogdoches	445	557	657	784	1075
Newton	455	457	550	715	964
Ochiltree	448	450	550	768	791
Palo Pinto	465	466	578	798	821
Parmer	448	450	550	733	756
Polk	457	463	550	658	678
Rains	462	463	576	776	800
Real	451	453	550	749	888
Reeves	457	487	550	705	855
Roberts	448	450	550	733	756
Sabine	455	457	550	715	964
San Saba	437	470	594	780	893
Scurry	363	430	550	800	879
Shelby	457	458	550	790	964
Somervell	445	478	566	723	786
Stephens	409	418	550	757	823
Stonewall	425	426	550	787	854
Swisher	448	450	550	733	756
Terry	423	471	550	723	905
Titus	430	510	605	727	1062
Tyler	457	458	550	708	917
Uvalde	359	488	550	717	964
Van Zandt	485	488	596	833	858
Ward	457	463	550	685	813
Wharton	441	496	550	728	750
Wilbarger	357	426	550	706	788
Winkler	456	483	550	714	848
Yoakum	424	472	550	716	907

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TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Young	359	417	550	698	812
Zavala	451	453	550	749	888
Zapata	457	491	550	786	875

UTAH

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Logan, UT-ID MSA	454	490	613	822	1015	Cache
Ogden-Clearfield, UT MSA	467	562	692	952	1125	Davis, Morgan, Weber
Provo-Orem, UT MSA	519	571	667	970	1169	Juab, Utah
Salt Lake City, UT HMFA	575	625	754	1061	1235	Salt Lake
St. George, UT MSA	517	542	644	936	1053	Washington
Summit County, UT HMFA	636	884	982	1375	1722	Summit
Tooele County, UT HMFA	479	537	638	806	1118	Tooele

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	495	497	607	860	915
Carbon	461	462	555	729	856
Duchesne	461	501	555	717	975
Garfield	495	497	607	860	915
Iron	457	482	555	809	975
Millard	495	497	607	860	915
Rich	461	489	612	823	998
Sanpete	495	497	607	860	915
Uintah	461	501	555	729	820
Wayne	495	497	607	860	915
Box Elder	385	472	594	785	914
Daggett	461	501	555	720	975
Emery	461	501	555	720	975
Grand	460	501	555	715	974
Kane	495	497	607	860	914
Piute	495	497	607	860	915
San Juan	461	501	555	720	975
Sevier	495	497	607	860	915
Wasatch	511	598	788	942	1131

VERMONT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington-South Burlington, VT MSA	729	807	1013	1297	1454	Chittenden County towns of Bolton town, Buels gore, Burlington city, Charlotte town, Colchester town, Essex town, Hinesburg town, Huntington town, Jericho town, Milton town, Richmond town, St. George town, Shelburne town, South Burlington city, Underhill town, Westford town, Williston town, Winooski city Franklin County towns of Bakersfield town, Berkshire town, Enosburg town, Fairfax town, Fairfield town, Fletcher town, Franklin town, Georgia town, Highgate town, Montgomery town, Richford town, St. Albans city, St. Albans town, Sheldon town, Swanton town Grand Isle County towns of Alburg town, Grand Isle town, Isle La Motte town, North Hero town, South Hero town

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Addison County, VT	527	659	793	1043	1391	Addison town, Bridport town, Bristol town, Cornwall town, Ferrisburg town, Goshen town, Granville town, Hancock town, Leicester town, Lincoln town, Middlebury town, Monkton town, New Haven town, Orwell town, Panton town, Ripton town, Salisbury town, Shoreham town, Starksboro town, Vergennes city, Waltham town, Weybridge town, Whiting town
Bennington County, VT	525	658	766	998	1173	Arlington town, Bennington town, Dorset town, Glastenbury town, Landgrove town, Manchester town, Peru town, Pownal town, Readsboro town, Rupert town, Sandgate town, Searsburg town, Shaftsbury town, Stamford town, Sunderland town, Winhall town, Woodford town
Caledonia County, VT	496	516	647	819	848	Barnet town, Burke town, Danville town, Groton town, Hardwick town, Kirby town, Lyndon town, Newark town, Peacham town, Ryegate town, St. Johnsbury town, Sheffield town, Stannard town, Sutton town, Walden town, Waterford town, Wheelock town
Essex County, VT	512	575	699	891	1045	Averill town, Avery's gore, Bloomfield town, Brighton town, Brunswick town, Canaan town, Concord town, East Haven town, Ferdinand town, Granby town, Guildhall town, Lemington town, Lewis town, Lunenburg town, Maidstone town, Norton town, Victory town, Warner's grant, Warren's gore
Lamoille County, VT	518	623	725	1010	1273	Belvidere town, Cambridge town, Eden town, Elmore town, Hyde Park town, Johnson town, Morristown town, Stowe town, Waterville town, Wolcott town
Orange County, VT	553	624	727	1012	1043	Bradford town, Braintree town, Brookfield town, Chelsea town, Corinth town, Fairlee town, Newbury town, Orange town, Randolph town, Strafford town, Thetford town, Topsham town, Tunbridge town, Vershire town, Washington town, West Fairlee town, Williamstown town
Orleans County, VT	373	516	576	727	915	Albany town, Barton town, Brownington town, Charleston town, Coventry town, Craftsbury town, Derby town, Glover town, Greensboro town, Holland town, Irasburg town, Jay town, Lowell town, Morgan town, Newport city, Newport town, Troy town, Westfield town, Westmore town
Rutland County, VT	474	620	721	953	1220	Benson town, Brandon town, Castleton town, Chittenden town, Clarendon town, Danby town, Fair Haven town, Hubbardton town, Ira town, Killington town, Mendon town, Middletown Springs town, Mount Holly town, Mount Tabor town, Pawlet town, Pittsfield town, Pittsford town, Poultney town, Proctor town, Rutland city, Rutland town, Shrewsbury town, Sudbury town, Tinmouth town, Wallingford town, Wells town, West Haven town, West Rutland town
Washington County, VT	521	610	763	1031	1154	Barre city, Barre town, Berlin town, Cabot town, Calais town, Duxbury town, East Montpelier town, Fayston town, Marshfield town, Middlesex town, Montpelier city, Moretown town, Northfield town, Plainfield town, Roxbury town, Waitsfield town, Warren town, Waterbury town, Woodbury town, Worcester town
Windham County, VT	617	643	845	1021	1053	Athens town, Brattleboro town, Brookline town, Dover town,

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VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
						Dummerston town, Grafton town, Guilford town, Halifax town, Jamaica town, Londonderry town, Marlboro town, Newfane town, Putney town, Rockingham town, Somerset town, Stratton town, Townshend town, Vernon town, Wardsboro town, Westminster town, Whitingham town, Wilmington town, Windham town
Windsor County, VT	581	651	766	1043	1240	Andover town, Baltimore town, Barnard town, Bethel town, Bridgewater town, Cavendish town, Chester town, Hartford town, Hartland town, Ludlow town, Norwich town, Plymouth town, Pomfret town, Reading town, Rochester town, Royalton town, Sharon town, Springfield town, Stockbridge town, Weathersfield town, Weston town, West Windsor town, Windsor town, Woodstock town

VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Blacksburg-Christiansburg-Radford, VA HMFA	521	571	639	877	1123	Montgomery, Radford city
Charlottesville, VA MSA	595	716	847	1098	1215	Albemarle, Fluvanna, Greene, Nelson, Charlottesville city
Danville, VA MSA	379	435	561	700	751	Pittsylvania, Danville city
Franklin County, VA HMFA	347	416	535	640	682	Franklin
Giles County, VA HMFA	348	452	535	682	941	Giles
Harrisonburg, VA MSA	480	533	649	909	934	Rockingham, Harrisonburg city
Kingsport-Bristol-Bristol, TN-VA MSA	401	431	535	717	857	Scott, Washington, Bristol city
Louisa County, VA HMFA	570	647	737	881	907	Louisa
Lynchburg, VA MSA	481	494	595	734	819	Amherst, Appomattox, Bedford, Campbell, Bedford city, Lynchburg city
Pulaski County, VA HMFA	406	429	535	767	824	Pulaski
*Richmond, VA HMFA	719	779	870	1161	1386	Amelia, Caroline, Charles, Chesterfield, Cumberland, Dinwiddie, Goochland, Hanover, Henrico, King and Queen, King William, New Kent, Powhatan, Prince George, Sussex, Colonial Heights city, Hopewell city, Petersburg city, Richmond city
Roanoke, VA HMFA	477	508	656	832	909	Botetourt, Craig, Roanoke, Roanoke city, Salem city
*Virginia Beach-Norfolk-Newport News, VA-NC MSA	749	787	904	1247	1561	Gloucester, Isle of Wight, James, Mathews, Surry, York, Chesapeake city, Hampton city, Newport News city, Norfolk city, Poquoson city, Portsmouth city, Suffolk city, Virginia Beach city, Williamsburg city
Warren County, VA HMFA	496	577	719	1011	1042	Warren
*Washington-Arlington-Alexandria, DC-VA-MD HMFA	1025	1168	1324	1708	2235	Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas city, Manassas Park city
Winchester, VA-WV MSA	524	544	718	991	1020	Frederick, Winchester city

VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	366	501	563	684	842
Augusta	467	481	627	897	1031
Bland	446	461	535	682	758
Buchanan	446	461	535	682	758
Carroll	445	483	535	641	713
Culpeper	604	615	728	941	1000
Essex	430	531	654	890	918
Grayson	446	461	535	682	758
Halifax	348	483	535	719	940
Highland	458	477	592	817	986
Lancaster	430	530	645	793	854
Lunenburg	461	476	555	692	958
Mecklenburg	351	438	540	663	883
Northampton	430	530	645	786	854
Nottoway	445	480	535	760	870
Page	364	425	558	720	742
Prince Edward	520	521	626	749	1003
Richmond	430	530	645	786	854
Russell	349	462	535	655	675
Smyth	442	480	535	679	880
Tazewell	446	447	535	687	777
Wise	445	454	535	696	877
Buena Vista city	427	480	535	779	938
Covington city	348	446	535	650	678
Franklin city	388	537	595	736	1047
Lexington city	427	480	535	779	938
Norton city	445	454	535	696	877
Waynesboro city	467	481	627	897	1031

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	348	446	535	650	678
Bath	458	477	592	817	986
Brunswick	461	476	555	692	958
Buckingham	445	480	535	687	870
Charlotte	445	480	535	687	870
Dickenson	446	477	535	698	718
Floyd	492	536	594	826	1046
Greensville	462	501	556	672	834
Henry	412	429	535	686	786
King George	611	612	736	1070	1102
Lee	347	418	535	687	728
Madison	473	528	638	883	911
Middlesex	430	530	645	786	854
Northumberland	430	530	645	786	854
Orange	429	590	657	956	1153
Patrick	444	483	535	663	683
Rappahannock	473	528	638	883	911
Rockbridge	427	480	535	779	938
Shenandoah	440	472	577	770	853
Southampton	388	537	595	736	1047
Westmoreland	435	530	669	918	945
Wythe	348	440	535	701	941
Clifton Forge city	348	446	535	650	678
Emporia city	462	501	556	672	834
Galax city	445	483	535	641	713
Martinsville city	412	429	535	686	786
Staunton city	467	481	627	897	1031

WASHINGTON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	549	606	760	1109	1249	Whatcom
Bremerton-Silverdale, WA MSA	577	647	797	1141	1246	Kitsap
Kennewick-Richland-Pasco, WA MSA	484	528	662	895	1061	Benton, Franklin
Lewiston, ID-WA MSA	461	479	599	851	1036	Asotin
Longview, WA MSA	430	541	628	915	1043	Cowlitz
Mount Vernon-Anacortes, WA MSA	551	682	846	1157	1444	Skagit
Olympia, WA MSA	542	609	778	1130	1366	Thurston
Portland-Vancouver-Beaverton, OR-WA MSA	565	655	757	1102	1324	Clark, Skamania
Seattle-Bellevue, WA HMFA	687	783	942	1331	1626	King, Snohomish
Spokane, WA MSA	437	512	674	925	1049	Spokane
*Tacoma, WA HMFA	581	678	845	1231	1385	Pierce
Wenatchee, WA MSA	500	529	669	902	1039	Chelan, Douglas

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WASHINGTON continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Yakima, WA MSA	461	541	700	922	972	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	390	465	596	800	825	Clallam	491	544	707	1033	1065
Columbia	402	469	619	836	998	Ferry	390	461	596	800	825
Garfield	402	469	619	836	998	Grant	397	472	611	825	847
Grays Harbor	404	473	622	876	900	Island	702	704	849	1235	1491
Jefferson	503	617	754	1096	1128	Kittitas	450	524	691	926	961
Klickitat	521	529	628	882	908	Lewis	435	556	668	892	933
Lincoln	390	461	596	800	825	Mason	489	575	690	943	1116
Okanogan	436	525	617	844	929	Pacific	427	460	603	855	889
Pend Oreille	390	461	596	800	825	San Juan	615	662	818	1175	1436
Stevens	387	466	595	815	890	Wahkiakum	433	538	629	916	1050
Walla Walla	402	469	619	890	917	Whitman	435	480	622	878	1075

WEST VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boone County, WV HMFA	335	435	515	637	706	Boone
Charleston, WV HMFA	444	485	606	772	795	Clay, Kanawha, Lincoln, Putnam
Cumberland, MD-WV MSA	391	473	555	749	874	Mineral
Huntington-Ashland, WV-KY-OH MSA	396	468	562	693	716	Cabell, Wayne
Jefferson County, WV HMFA	445	601	684	999	1202	Jefferson
Martinsburg, WV HMFA	503	567	681	911	1093	Berkeley, Morgan
Morgantown, WV MSA	467	485	574	744	883	Monongalia, Preston
Parkersburg-Marietta-Vienna, WV-OH MSA	407	435	557	740	798	Pleasants, Wirt, Wood
Weirton-Steubenville, WV-OH MSA	367	450	555	693	753	Brooke, Hancock
Wheeling, WV-OH MSA	361	435	555	698	814	Marshall, Ohio
Winchester, VA-WV MSA	524	544	718	991	1020	Hampshire

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	397	414	515	675	710	Braxton	397	414	515	675	710
Calhoun	376	447	543	705	811	Doddridge	355	452	534	643	760
Fayette	429	430	515	637	685	Gilmer	397	414	515	675	710
Grant	449	518	582	762	946	Greenbrier	409	466	515	619	814
Hardy	449	518	582	762	946	Harrison	441	442	531	665	743
Jackson	376	447	543	705	811	Lewis	406	440	515	646	664
Logan	359	436	515	633	650	McDowell	430	444	515	702	892
Marion	367	470	564	675	822	Mason	427	437	515	653	697
Mercer	428	444	515	696	882	Mingo	335	452	515	649	843
Monroe	428	465	515	642	664	Nicholas	428	464	515	655	717
Pendleton	449	517	584	762	945	Pocahontas	428	444	515	630	748
Raleigh	433	460	519	663	682	Randolph	406	407	524	676	695

WEST VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ritchie	376	447	543	705	811
Summers	428	465	515	642	664
Tucker	397	414	515	675	710
Upshur	335	418	515	692	714
Wetzel	336	458	515	656	746
Roane	376	447	543	705	811
Taylor	355	452	534	640	760
Tyler	376	447	543	705	811
Webster	428	444	515	630	748
Wyoming	430	444	515	702	892

WISCONSIN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton, WI MSA	509	523	649	936	962	Calumet, Outagamie
Columbia County, WI HMFA	449	524	690	932	961	Columbia
Duluth, MN-WI MSA	394	480	605	760	968	Douglas
Eau Claire, WI MSA	402	480	600	813	847	Chippewa, Eau Claire
Fond du Lac, WI MSA	485	520	626	823	892	Fond du Lac
Green Bay, WI HMFA	521	533	671	943	972	Brown, Kewaunee
Iowa County, WI HMFA	432	505	664	793	816	Iowa
Janesville, WI MSA	477	557	694	908	935	Rock
Kenosha County, WI HMFA	598	623	773	1063	1223	Kenosha
La Crosse, WI-MN MSA	398	466	613	813	999	La Crosse
Madison, WI HMFA	547	683	807	1083	1341	Dane
*Milwaukee-Waukesha-West Allis, WI MSA	558	665	795	1002	1032	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul-Bloomington, MN-WI MSA	593	699	848	1110	1247	Pierce, St. Croix
Oconto County, WI HMFA	412	500	555	719	749	Oconto
Oshkosh-Neenah, WI MSA	450	530	627	823	1066	Winnebago
Racine, WI MSA	487	569	714	888	975	Racine
Sheboygan, WI MSA	404	519	613	758	930	Sheboygan
Wausau, WI MSA	401	500	617	824	911	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	427	469	580	755	778
Barron	369	465	555	708	729
Buffalo	395	449	574	728	759
Clark	359	424	555	759	781
Dodge	565	566	682	863	932
Dunn	432	465	584	851	875
Forest	427	469	580	755	778
Green	416	448	588	747	872
Iron	379	442	555	710	737
Jefferson	486	569	750	899	1133
Lafayette	413	435	559	716	802
Lincoln	462	463	555	808	833
Marinette	462	500	555	727	749
Menominee	437	490	596	768	852
Oneida	423	463	607	776	1068
Ashland	428	431	555	705	955
Bayfield	379	442	555	710	737
Burnett	379	442	555	710	737
Crawford	461	493	555	689	849
Door	417	533	641	861	965
Florence	371	448	555	706	741
Grant	461	462	555	719	974
Green Lake	422	484	561	734	896
Jackson	395	449	574	728	759
Juneau	375	462	576	758	782
Langlade	461	462	555	732	798
Manitowoc	378	442	582	696	866
Marquette	437	490	596	768	852
Monroe	390	455	600	761	832
Pepin	395	449	574	728	759

SCHEDULE B - FY 2008 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Polk	432	505	663	815	841
Price	379	442	555	710	737
Rusk	379	442	555	710	737
Sawyer	379	446	555	710	737
Taylor	379	442	555	710	737
Vernon	441	443	555	702	765
Walworth	501	590	769	960	990
Waupaca	384	482	586	765	788
Wood	376	462	573	697	764
Portage	496	503	600	794	817
Richland	390	436	555	712	734
Sauk	429	570	654	879	907
Shawano	382	451	555	693	796
Trempealeau	436	438	555	758	781
Vilas	427	469	580	790	814
Washburn	379	442	555	710	737
Waushara	437	490	596	768	852

WYOMING

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	401	439	555	808	973	Natrona
Cheyenne, WY MSA	492	519	658	896	1153	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	449	514	652	895	948
Campbell	498	537	601	814	886
Converse	361	446	555	757	976
Fremont	438	441	560	702	894
Hot Springs	445	465	556	726	868
Lincoln	491	519	591	789	934
Park	416	478	562	706	930
Sheridan	447	482	592	757	924
Sweetwater	366	445	558	780	810
Uinta	386	487	555	758	900
Weston	445	465	556	726	868
Big Horn	445	465	556	726	868
Carbon	361	432	555	695	845
Crook	445	465	556	726	868
Goshen	460	461	555	684	942
Johnson	446	464	572	726	868
Niobrara	445	465	556	726	868
Platte	445	465	556	726	868
Sublette	494	520	603	789	935
Teton	764	852	1072	1413	1455
Washakie	445	465	556	726	868

GUAM

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	740	794	970	1413	1690

PUERTO RICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla-Isabela-San Sebastián, PR MSA	325	352	391	502	563	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincón, San Sebastián
Arecibo, PR HMFA	343	373	414	565	662	Arecibo, Camuy, Hatillo
Barranquitas-Aibonito-Quebradillas, PR HMFA	338	365	406	517	594	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis, Quebradillas
Caguas, PR HMFA	377	408	454	629	758	Caguas, Cayey, Cidra, Gurabo, San Lorenzo

PUERTO RICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fajardo, PR MSA	390	424	471	685	826	Ceiba, Fajardo, Luquillo
Guayama, PR MSA	343	370	412	585	725	Arroyo, Guayama, Patillas
Mayagüez, PR MSA	369	401	445	532	734	Hormigueros, Mayagüez
Ponce, PR MSA	399	433	479	665	759	Juana Díaz, Ponce, Villalba
San Germán-Cabo Rojo, PR MSA	321	334	386	505	544	Cabo Rojo, Lajas, Sabana Grande, San Germán
San Juan-Guaynabo, PR HMFA	429	465	517	685	810	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerío, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loíza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
Yauco, PR MSA	318	336	382	481	613	Guánica, Guayanilla, Peñuelas, Yauco

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas	317	343	382	523	568	Coamo	317	343	382	523	568
Culebra	317	343	382	523	568	Jayuya	317	343	382	523	568
Las Marías	317	343	382	523	568	Maricao	317	343	382	523	568
Salinas	317	343	382	523	568	Santa Isabel	317	343	382	523	568
Utuado	317	343	382	523	568	Vieques	317	343	382	523	568

VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Criox	543	565	685	856	979	St. John	616	736	947	1173	1226
St. Thomas	616	736	947	1173	1226						

Note1: The FMRs for unit sizes larger then 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.
Note2: 50th percentile FMRs are indicated by an * before the FMR Area name. 09/20/2007

SCHEDULE D - FY 2008 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area Name	Space Rent
California	*Orange County, CA HMFA	$704
	*Riverside-San Bernardino-Ontario, CA MSA	$457
	*San Diego-Carlsbad-San Marcos, CA MSA	$711
	Los Angeles-Long Beach, CA HMFA	$579
	Napa, CA MSA	$497
	Santa Rosa-Petaluma, CA MSA	$619
	Vallejo-Fairfield, CA MSA	$498
Colorado	Boulder, CO MSA	$422
Maryland	St. Mary's	$434
New York	Utica-Rome, NY MSA	$272
Oregon	Bend, OR MSA	$317
	Salem, OR MSA	$420
Pennsylvania	Adams	$487
Washington	Olympia, WA MSA	$495
	Seattle-Bellevue, WA HMFA	$545
West Virginia	Logan	$393
	McDowell	$393
	Mercer	$393
	Mingo	$393
	Wyoming	$393

* 50th percentile FMR areas.

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October 1, 2007

Part IV

Department of Housing and Urban Development

24 CFR Part 203

Standards for Mortgagor's Investment in Mortgaged Property: Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–5087–F–02]

RIN 2502–AI52

Standards for Mortgagor's Investment in Mortgaged Property

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's regulations governing the specific standards for a mortgagor's investment in property for which the mortgage is insured by the Federal Housing Administration (FHA). Specifically, this final rule codifies HUD's longstanding practice, authorized by statute, of allowing a mortgagor's investment to be derived from gifts by family members and certain organizations.

The standards established by this final rule address a situation in which the mortgagor's investment is derived from a gift, loan, or other payment that is provided by any donor, including an individual or an organization, and also specify prohibited sources for a mortgagor's investment. The final rule establishes that a prohibited source of downpayment assistance is a payment that consists, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale: The seller, or any other person or entity that financially benefits from the transaction; or any third party or entity that is reimbursed directly or indirectly by the seller, or any other person or entity that financially benefits from the transaction.

This final rule follows publication of a May 11, 2007, proposed rule and takes into consideration the public comments received on the proposed rule. After considering all comments received, HUD is adopting the May 11, 2007, proposed rule with certain minor clarification changes.

DATES: *Effective Date:* October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Margaret Burns, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone number (202) 708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

In order for a mortgage to be eligible for insurance by the Federal Housing Administration (FHA), section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) requires the mortgagor (with narrow exceptions) to pay on account of the property at least 3 percent of the cost of acquisition. The statute and the implementing regulation at 24 CFR 203.19 are silent about permissible or impermissible sources of the mortgagor's investment, except that some loans are permitted sources under the statute. For example, section 203(b)(9) of the National Housing Act permits family members to provide loans to other family members, and permits the mortgagor's downpayment to be paid by a corporation or person other than the mortgagor in certain circumstances, such as when the mortgagor is 60 years of age or older, or when the mortgage covers a housing unit in a homeownership program under the Homeownership and Opportunity Through HOPE Act (Title IV of Pub. L. 101–625, 104 Stat. 4148, approved November 28, 1990). HUD has long taken the position that downpayment funding from the seller of the home to be purchased by a borrower with an FHA-insured loan is not a permissible source of the mortgagor's investment in the property. FHA's experience is that loans made to borrowers who rely on these types of seller-funded assistance perform very poorly.

Although FHA has attempted to preclude downpayment funding derived from contributions of the seller of the property, some so-called charitable organizations have been able to circumvent these restrictions in various ways, including the establishment of a fund that provides the so-called "gift" to the homebuyer. The situations that cause FHA concern are those in which a so-called charitable organization provides a so-called gift to a homebuyer from funds that it receives, directly or indirectly, from the seller. In these cases, there is a clear *quid pro quo* between the homebuyer's purchase of the property and the seller's "contribution" or payment to the charitable organization. This is also true if the contribution to the charitable organization comes from an entity, other than the seller, that has an expectation of being reimbursed by the seller. Often, these contributions function as an inducement to purchase the home. It is these concerns that prompted HUD's rulemaking in 1999, which did not result in final regulations, and now again, in 2007.

II. The May 11, 2007, Proposed Rule

On May 11, 2007, HUD published a proposed rule (72 FR 27047) for public comment to codify standards regarding the use of gifts as a source of the mortgagor's investment in the mortgaged property, and to also specify prohibited sources for a mortgagor's investment. The proposed rule established that a prohibited source of downpayment assistance is a payment that consists, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale: (1) The seller, or any other person or entity that financially benefits from the transaction; or (2) any third party or entity (referred to as a "donor") that is reimbursed directly or indirectly by any of the parties listed in clause (1).

As discussed in the proposed rule, FHA's primary concern with these transactions is that the sales price is often increased to ensure that the seller's net proceeds are not diminished, and such increase in sales price is often to the detriment of the borrower and FHA. A Government Accountability Office (GAO) report released in 2005 entitled "Mortgage Financing: Actions Needed to Help FHA Manage Risks from New Loan Products' (GAO Mortgage Financing Report) stated that Fannie Mae and Freddie Mac do not allow seller-related contributions to the downpayment, and that seller-related contributions could contribute to an overvaluation of the price of the property (GAO Mortgage Financing Report, at page 16).

In May 2006, the Internal Revenue Service (IRS) addressed these same concerns by issuing Revenue Ruling 2006–27, which provides guidelines on organizations that may provide downpayment assistance to homebuyers and qualify as tax-exempt charitable or educational organizations under Internal Revenue Code (IRC) section 501(c)(3), and those that do not qualify for this tax-exempt status. The IRS, in its press announcement of the ruling, stated that funneling downpayment assistance from sellers to buyers through "self-serving, circular-financing arrangements" is inconsistent with operation as a section 501(c)(3) charitable organization. The IRS stated that, in a typical scheme, there is a direct correlation between the amount of the downpayment assistance provided to the buyer and the payment received from the seller, the seller pays the organization only if the sale closes, and the organization usually charges an

additional fee for its services. The IRS noted that so-called charities that manipulate the system do more than mislead honest homebuyers; these organizations ultimately cause an increase in the cost of the home and damage the image of honest, legitimate charities. (See IRS News Release of May 4, 2006, at *http://www.irs.gov/newsroom/article/0,id=156675,00.html.*)

As the IRS also noted in its press release, inflated sales prices are often found on properties purchased with downpayment assistance from seller-funded nonprofit programs. Unlike true gifts that reduce the amount of the purchase price financed by the homeowner, such seller contributions increase the sales price of the home and result in higher mortgage payments.

Given that seller-funded gift programs thrive in stagnant or depreciating housing markets, the risk to FHA increases if FHA cannot recover the full amount owed when FHA acquires and resells a home that had been purchased by a participating borrower who had defaulted on the FHA-insured loan. While these situations represent a financial burden for FHA and taxpayers, of equal if not greater concern, is that they hurt the families who lose their homes and the neighborhoods in which those homes are located.

III. This Final Rule

For the foregoing reasons, HUD is proceeding, through this final rule, to codify the regulations submitted for public comment in the May 11, 2007, proposed rule. This final rule makes the following change to the May 11, 2007, proposed rule in response to public comment. This final rule clarifies in § 203.19(f) that a tribal government or a tribally designated housing entity (TDHE), as defined at 25 U.S.C. 4103(21), is a permissible source of downpayment assistance. Additionally, the final rule revises in § 203.19(f) the description of tax-exempt organizations that are permissible sources of gifts to more closely align this description with the description used by IRS of such organizations.

In addition, notwithstanding the effective date provided under the **DATES** caption of this rule, pursuant to an April 1998 settlement agreement resolving litigation between the Nehemiah Progressive Housing Development Corporation (Nehemiah) and HUD, the effective date shall be March 31, 2008 for the Nehemiah downpayment assistance program described in the settlement agreement between Nehemiah and HUD.

While this rule prevents sellers from funding downpayments in their own home sales transactions, the rule is not intended to preclude sellers from contributing to charitable organizations that provide downpayment assistance that is unrelated in any manner to any properties sold by the seller. In addition, the rule is not intended to preclude reasonable assistance with closing costs not related to the minimum investment, which may be permitted under local practice. Nothing in this rule changes HUD's policy of allowing builders and other sellers to offer cash incentives to homebuyers, provided that any cash or cash equivalent given to a homebuyer before, at, or after closing results in a proportionate reduction to the mortgage; an amount which the homebuyer then would have to provide as additional funds at closing. The primary focus of this rule is to establish appropriate standards for downpayment assistance to a homebuyer that is categorized as a gift.

IV. Discussion of Key Issues Raised by Public Commenters on Proposed Rule

The public comment period for the May 11, 2007, proposed rule was initially set to close on July 10, 2007, but HUD extended the comment period to August 10, 2007. HUD received approximately 15,000 public comments on the proposed rule. The overwhelming majority of these comments consisted of brief statements opposing HUD's rule, with the majority also submitting their comments in a standard similar format and wording, and urging HUD not to eliminate downpayment assistance in connection with FHA-insured mortgages. However, a number of comments supported the rule, and approved of FHA's efforts to harmonize its regulations regarding downpayment assistance with recent rulings of the IRS. These commenters shared HUD's concerns about home price inflation and the associated risks for increased delinquency and foreclosure. They stated that inflated home prices affect a community's housing market, and can magnify existing housing affordability problems.

The following provides a summary of the major themes and issues raised during the public comment period on the proposed rule.

Comment: HUD should not eliminate downpayment assistance, but regulate such assistance, or establish standards for downpayment supported loans, including taking action to improve appraisals and require stricter underwriting and a higher insurance premium for such loans.

HUD response: Many commenters, through their statements urging HUD not to eliminate downpayment assistance, indicated that they believed the May 11, 2007, proposed rule would eliminate all downpayment assistance. HUD's May 11, 2007, rule did not propose to eliminate downpayment assistance, but rather proposed to regulate such assistance as the commenters requested. Additionally, HUD is not eliminating all privately funded downpayment assistance. Such assistance is permitted, for example, from family members, the borrower's employer, state or local governments, charitable organizations that do not rely upon a party with a financial interest in the transaction for downpayment assistance, or labor organizations. The proposed rule, however, did propose to preclude as acceptable downpayment assistance, assistance that, in whole or in part, is funded by the seller or any other person or entity that financially benefits from the transaction or any third party or entity that is reimbursed, directly or indirectly, by the seller or any other party that financially benefits from the transaction.

Comment: Although downpayment assistance presents risks, HUD should address what an acceptable level of risk is, and determine how the risk can be maintained at or below that level.

HUD response: Based on HUD's analysis of its loan portfolio going back to 1998, HUD has assessed that risk and has determined that there is 2 to 3 times greater risk of default and claim with purchase loans that receive downpayment assistance from the seller or other persons or entities that financially benefit from the sale of a home to the borrower than from all other loans with downpayment assistance from all other sources.

For example, for loans endorsed for insurance in Fiscal Year (FY) 2001, the cumulative claim rate as of July 2007 was 7.1 percent for loans with downpayment assistance from relatives, public agencies, and employers, but 15.8 percent for loans with downpayment assistance from nonprofit entities that received reimbursements from sellers. A cumulative claim rate is calculated by dividing the number of claims that have occurred to date by the number of loans endorsed in a particular fiscal year. In conjunction with the FY 2006 Actuarial Review of the Mutual Mortgage Insurance Fund, FHA's independent actuaries estimated that the ultimate claim rate for 30-year fixed-rate purchase loans endorsed in FY 2008 would be 11.04 percent if they did not have seller-funded downpayment assistance, but 23.06 percent if they did. An ultimate claim rate is defined as the total number of

claims expected to occur over the 30-year life of a book of business divided by the total number of loans endorsed in a particular fiscal year. The difference between these rates represents the difference between acceptable and unacceptable levels of risk to the FHA insurance fund.

In addition, HUD has determined that loans with downpayment assistance from sellers or other parties with a financial interest in the transaction are also associated with a higher loss rate than other single family loans insured by FHA. In other words, homeowners with this type of downpayment assistance have a two to three times higher possibility of losing their home. This rule, therefore, is HUD's effort to mitigate an unacceptable level of risk.

Comment: HUD can mitigate the risk from downpayment assistance by requiring full disclosure of the amount of downpayment assistance for underwriting and to appraisers.

HUD response: FHA requirements currently require disclosure of the full amount of downpayment assistance.

Comment: Rather than eliminate downpayment assistance, HUD can further mitigate risk by requiring a complete home inspection, to avoid potentially huge repair costs to the homeowner. HUD could also require the owner to obtain a homeowner's warranty for a specified period of time, to avoid high repair cost as a potential source of default and foreclosure. Alternatively, HUD could require downpayment assistance companies to offer mandatory risk mitigation tools or offer insurance to the buyer.

HUD response: HUD reiterates that downpayment assistance is not being eliminated by this rule. The commenters' recommendations are noted, but the suggested actions are outside the scope of the present rule. In addition, the recommendations pertaining to warranty or insurance does not deal directly with sales price inflation, which is a separate issue from repair costs a homeowner may face after purchasing a home.

Comment: Price inflation does not arise from downpayment assistance, but from the appraisal process. The appraisal process should be reformed, for example, by establishing a blind pool appraiser selection process for loans with downpayment assistance.

HUD response: Downpayment assistance can be an independent source of price inflation separate from, or in conjunction with, any price inflation that may arise from the appraisal process, which, while noted by HUD, is an issue beyond the scope of the present rule. HUD has already taken steps to address the appraisal issue. HUD's Appraiser Roster, for which the regulations can be found in 24 CFR part 200, subpart G, is intended to ensure fairness and accuracy in the appraisal process for FHA-insured mortgages.

Comment: HUD should make rules to deal with predatory lenders and lenders who charge outrageous rates. Such lenders are the real problem, rather than downpayment assistance. It is a lender's responsibility to ensure that people cannot buy more than they can afford, and downpayment assistance should not be affected because of bad lender decisions.

HUD response: HUD acknowledges that problems may arise at each stage of, and with each party to, a complex transaction such as purchasing a home. In addition, problems change over time, and the way any given problem is addressed also changes. This rule addresses an aspect, other than predatory lending, of the home purchase transaction that has been identified as a problem. HUD notes the recommendation is outside the scope of this rule. Although HUD does not regulate non-FHA lending practices, HUD has taken steps, such as issuing rules on property flipping, appraisal reform, and lender accountability, to address predatory lending, and continues to monitor this problem and develop new ways of addressing it. FHA has also taken steps to mitigate mortgage insurance losses with the development and implementation of Credit Watch, Neighborhood Watch, and Appraiser Watch. FHA also strengthened its education efforts by doubling housing counseling grant funds, creating anti-predatory lending brochures, featuring anti-predatory lending messages in advertising, and increasing training opportunities for FHA's program participants.

Comment: HUD should require homebuyer education instead of eliminating downpayment assistance.

HUD response: HUD notes that it is not eliminating downpayment assistance but, as requested by many commenters, is establishing standards for the use of downpayment assistance in FHA-insured mortgages. HUD encourages and supports homebuyer education, and for some programs requires homebuyer counseling, but addressing that subject is beyond the scope of the current rule.

Comment: HUD should permit sellers to directly contribute downpayment assistance to buyers without a middleman.

HUD response: HUD has determined that contributions to downpayment assistance from sellers and other parties with a financial interest in the transaction, whether direct or indirect, present an unacceptable level of risk for FHA-insured mortgages.

Comment: Rather than doing away with downpayment assistance, HUD should increase FHA loan limits.

HUD response: It is unclear how increasing loan limits would mitigate the risk that HUD has experienced with seller-funded downpayment assistance.

Comment: Rather than doing away with downpayment assistance, HUD should enforce Mortgagee Letter 02–02.

HUD response: While noting again that HUD is not ending downpayment assistance, HUD also notes that Mortgagee Letter 02–02 addresses a different issue than that addressed by this rule. Mortgagee Letter 02–02 addresses a situation where a seller or a nonprofit entity has paid a homebuyer's consumer debt, which then makes it easier for the buyer to meet debt to income ratios. Further, HUD does enforce Mortgagee Letter 02–02. The focus of this rule is downpayment assistance provided by a party with a financial interest in the transaction.

Comment: Rather than doing away with downpayment assistance, HUD should limit the seller contribution to 3 percent.

HUD response: HUD reiterates that it is seeking to establish reasonable and prudent standards for the use of downpayment assistance, and that downpayment assistance from a seller or other party with a financial interest in the transaction presents an unacceptable risk to FHA.

Comment: Downpayment assistance should be permitted in the 6 percent seller concession for closing costs that FHA allows.

HUD response: The downpayment differs from closing costs in that the downpayment creates equity in the property for the buyer and closing costs do not. As such, the downpayment cannot be included in the mortgage, whereas certain closing costs are permitted to be included in the mortgage. For this reason, downpayment assistance cannot be treated as closing costs.

Comment: Downpayment assistance helps first-time, low-credit, and low-income homebuyers, who are often minority or single-parent households. HUD should not eliminate or limit such assistance.

HUD response: As noted, HUD is not eliminating downpayment assistance but is establishing reasonable and prudent standards for the use of downpayment assistance. All homebuyers will benefit if the debt

burdens of homeownership are set more realistically and if price inflation at the time of purchase is mitigated. Further, mortgage insurance premiums would likely have to be increased without these standards, which would negatively impact all homebuyers. In addition, an analysis of HUD Real Estate Owned (REO) sales since 2004 shows that sales proceeds from this type of downpayment assistance is 3 to 6 percent less than other REO sales. This suggests that the sales prices of such properties may have been inflated.

Comment: This rule will negatively impact the market devastated by Hurricane Katrina by reducing the number of families willing to rebuild or buy in that market.

HUD response: A number of special incentives and forms of assistance, such as disaster relief loans and grants and lower buyer investment requirements, are available in disaster zones such as that created by Hurricane Katrina. FHA, for example, offers eligible disaster victims section 203(h)-insured mortgages, which require no downpayment. Such assistance and requirements appropriately leave homebuyers in a much more favorable position to reestablish homeownership. The reasonable and prudent standards established by this rule will help to ensure that the benefits provided to disaster victims are not undercut by burdensome price and debt inflation.

Comment: The rule will have a negative impact on FHA's business, because of the substantial percentage of loans supported by downpayment assistance. The rule would immediately cause a huge contraction in FHA's business.

HUD response: HUD does not intend to maintain or expand the volume of FHA business at the expense of sound and sustainable purchases by homebuyers. Such a result would be contrary to the public purposes underlying FHA's business.

Comment: The rule is not supported by data. The analysis of the Government Accountability Office (GAO) found that downpayment-assisted loans had higher default and claim rates than other FHA loans, but did not segregate the effects of downpayment assistance from those of low downpayments and low credit ratings. HUD should conduct additional research because the data presented does not appear to be conclusive.

HUD response: HUD has collected and analyzed additional data through its portfolio analysis. This analysis provides additional verification of the higher level of risk associated with downpayments funded by a seller or other financially interested party compared to downpayments funded from other sources, which HUD continues to permit. HUD's analysis has also established that loans with downpayment assistance from sellers or other parties with a financial interest in the transaction have a higher loss rate associated with them and currently represent 30 percent of FHA's REO portfolio.

Comment: Prohibition of downpayment assistance would harm otherwise qualified borrowers, who will have to delay or forego homeownership or turn to the subprime market.

HUD response: HUD notes again that the current rule does not prohibit or eliminate downpayment assistance, but only establishes reasonable and prudent standards for its use that will benefit, and not harm, homebuyers. The purpose of the rule is to mitigate the harm caused by downpayment assistance from sources with a financial interest in the transaction, and help assure continued homeownership. As previously stated, downpayment assistance from parties with a financial interest in the transaction have higher default and claim rates and higher loss rates.

Comment: Downpayment assistance should not be prohibited because it provides borrowers instant equity when they purchase a home.

HUD response: HUD agrees, and the rule does not prohibit all downpayment assistance.

Comment: The rule will have a negative impact on the housing market and on the economy.

HUD response: To the contrary, HUD expects that the reasonable and prudent approach taken by this rule will have a positive impact on the housing market and on the economy by reducing the number of mortgages that would otherwise default and go into foreclosure, driving down property values and negatively impacting a community's tax base and economic viability.

Comment: HUD should partner with downpayment assistance programs to promote homeownership. A zero downpayment program or downpayment assistance is needed to address the subprime crisis, because there is little or no equity in a substantial number of troubled properties. HUD should postpone action on downpayment assistance until 100 percent financing is permitted.

HUD response: HUD does sponsor downpayment assistance programs through such programs as the American Dream Downpayment Initiative, and others in which the assistance is not linked to the financial interest of parties other than the homebuyer. HUD currently does not have the authority for a zero downpayment program; however, a zero downpayment program would not address this issue of the financial interest of the providers of downpayment assistance. Reasonable standards would still be necessary for downpayment assistance, even if there is no requirement for a minimum investment by the homebuyer.

Comment: HUD is replacing a private sector program that works and is forcing people to rely on government bureaucracy. In addition, government-sponsored downpayment assistance has eligibility requirements such as income limits. Private downpayment assistance is available to anyone. The rule will vastly increase the size and cost of government.

HUD response: Many of the comments recognized the value of, and the need for, reasonable standards, and the eligibility requirements noted here provide such standards. The cost of government is controlled by prioritizing the availability of benefits to those who need them most. Private downpayment assistance that does not rely upon a party with a financial interest in the transaction is not affected by this rule, which establishes reasonable and prudent standards for the use of downpayment assistance. This rule addresses certain forms of downpayment assistance that increase the cost of government because they increase FHA mortgage insurance payments for losses attributable to loan defaults and lower REO sales proceeds.

Comment: A developer should be able to offer buyers incentives to purchase properties.

HUD response: A developer's ability to offer incentives, such as a reduced purchase price or a lower interest rate, is not affected by this rule. These incentives are distinguishable from downpayment assistance, and only the provision of downpayment assistance by a seller or a party with a financial interest in the transaction is prohibited by this rule.

Comment: Real estate agents should be permitted to use their commission to fund the downpayment where the real estate agent is the buyer/mortgagor, because the commission is earned, and not a seller contribution or gift.

HUD response: The circumstance described by this comment are not affected by this rule, because a borrower's earned income, such as a real estate agent's commission, is a permissible source of downpayment.

Comment: The rule should not exclude Indian tribes or tribally designated housing entities (TDHEs)

from the governments considered in the rule. In taking this significant action, HUD did not follow its own policy on tribal consultation and the rule should be withdrawn until HUD follows the consultation procedure.

HUD response: The rule did not intend to exclude Indian tribes or TDHEs from the governments considered in the rule. This final rule specifically clarifies the treatment of downpayment assistance from Indian tribes and TDHEs. As with other rules that are generally applicable and, thus, also incidentally apply to Indian tribes, HUD did not undertake tribal consultation. HUD's tribal consultation policy states, "Tribal Coordination, Collaboration and Consultation applies when any proposed policies, programs or actions are identified by HUD as having a substantial direct effect on an Indian tribe." (66 FR 49785). Since the effect of the rule on tribes is only incidental and since the rule applies to all FHA-insured single family mortgages, the tribal consultation policy is not applicable. All providers of downpayment assistance are subject to the general standard of this rule and their downpayment assistance cannot be funded by sellers or other parties with a financial interest in the transaction. HUD follows, and will continue to follow, its tribal consultation policy when identified by HUD as applicable.

Comment: HUD should clarify whether downpayment assistance provided by grantees under government programs is permitted.

HUD response: Grant funds made available to assist homebuyers may be used for downpayment assistance because such funds are not linked to the sources addressed by this standard, namely, the seller or other parties with a financial interest in the transaction. Grantees act with a public purpose, using government-provided funds, rather than acting with a private financial interest in the transaction or using funds from parties with a financial interest in the transaction.

Comment: HUD should provide a definition of "family members."

HUD response: The term "family member" is defined at section 201(e) of the National Housing Act (12 U.S.C. 1707(e)) and governs regulations issued for FHA programs under section 203 of the National Housing Act, such as the current rule.

Comment: HUD should permit loans for downpayment assistance and second mortgages, including loans from the seller and from governments.

HUD response: The rule continues to permit loans authorized by statute as a source for the minimum investment. Loans from sellers are not authorized by statute.

Comment: HUD should clarify that this rule does not prohibit assistance from nonprofit developers.

HUD response: HUD permits downpayment assistance from charitable organizations. Downpayment assistance from nonprofit developers is permitted as long as it complies with this general standard and their downpayment assistance cannot be funded by sellers or other parties with a financial interest in the transaction.

V. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed the rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that the rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). The docket file was available for public inspection in the Regulations Division, Office of General Counsel, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Environmental Review

A Finding of No Significant Impact was not required for the proposed rule. Under 24 CFR 50.19(b)(6), the rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4332 *et seq.*) and that categorical exclusion continues to apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The purpose of this rule, as noted in the preamble, is to establish standards regarding the use of gifts by borrowers with an FHA-insured mortgage—primarily standards that would address gifts by charitable organizations—as a source of an FHA mortgagor's investment in the mortgaged property. To date, HUD's practice has been to limit permissible sources of gifts to family members, governmental agencies, employer of the mortgagor, labor union of the mortgagor, or charitable organizations. HUD is not narrowing the sources of gifts through this rulemaking, but rather is striving to ensure that gifts are gifts and that, especially in the situation of gifts from charitable organizations, the gift is not a *quid pro quo* between the homebuyer's purchase of the property and the seller's "contribution" or payment to the charitable organization.

The prohibited sources of downpayment assistance, as structured in the final rule, are narrow and should not encompass a substantial number of small entities that are engaged in downpayment assistance to homebuyers, which, to date, have primarily been charitable organizations with tax-exempt status. Charitable organizations, large or small, remain eligible to provide downpayment assistance to FHA mortgagors, subject to meeting the requirements of § 203.19, as revised by this final rule.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612, Federalism

Executive Order 12612, (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This final rule does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order. This final rule solely addresses requirements under HUD's FHA mortgage insurance programs.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, approved March 22, 1995) established requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This final rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number for the principal FHA single family mortgage insurance program is 14.117. This final rule also applies through cross-referencing to FHA mortgage insurance for condominium units (14.133), and other smaller single family programs.

List of Subjects in 24 CFR Part 203

Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

■ Accordingly, the Department amends 24 CFR part 203, as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z–16, and 1715u; 42 U.S.C. 3535(d).

■ 2. Section 203.19 is revised to read as follows:

§ 203.19 Mortgagor's investment in the property.

(a) *Required funds.* The mortgagor must have available funds equal to the difference between:

(1) The cost of acquisition, which is the sum of the purchase price of the home and settlement costs acceptable to the Secretary; and

(2) The amount of the insured mortgage.

(b) *Mortgagor's minimum cash investment.* The required funds under paragraph (a) of this section must include an investment in the property by the mortgagor, in cash or cash equivalent, equal to at least 3 percent of the cost of acquisition, as determined by the Secretary, unless the mortgagor is:

(1) A veteran meeting the requirements of § 203.18(b); or

(2) A disaster victim meeting the requirements of § 203.18(e).

(c) *Restrictions on seller funding.* Notwithstanding paragraphs (e) and (f) of this section, the funds required by paragraph (a) of this section shall not consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

(1) The seller or any other person or entity that financially benefits from the transaction; or

(2) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in paragraph (c)(1) of this section.

(d) *Gifts and loans usually prohibited for minimum cash investment.* A mortgagor may not use funds for any part of the minimum cash investment under paragraph (b) of this section if the funds were obtained through a loan or a gift from any person, except as provided in paragraphs (e) and (f) of this section, respectively.

(e) *Permissible sources of loans.*

(1) *Statutory authorization needed.* A statute must authorize a loan as a source of the mortgagor's minimum cash investment under paragraph (b) of this section.

(2) *Examples.* The following loans are authorized by statute as a source for the minimum investment:

(i) A loan from a family member, a loan to a mortgagor who is at least 60 years old when the mortgage is accepted for insurance, or a loan that is otherwise expressly authorized by section 203(b)(9) of the National Housing Act;

(ii) A loan made or held by, or insured by, a federal, state, or local government agency or instrumentality under terms and conditions approved by the Secretary;

(iii) A loan made or held by, or insured by, a tribal government or an agency or instrumentality thereof, including a tribally designated housing entity as defined at 25 U.S.C. 4103(21), which is treated as a state or local government under applicable state or local law, under terms and conditions approved by the Secretary; and

(iv) A federal disaster relief loan.

(f) *Permissible sources of gifts.* The following are permissible sources of gifts or grants used for the mortgagor's minimum investment under paragraph (b) of this section:

(1) Family members and governmental agencies and instrumentalities eligible under paragraphs (e)(2)(i) and (ii) of this section;

(2) A tribal government or an agency or instrumentality thereof, including a tribally designated housing entity, as defined at 25 U.S.C. 4103(21);

(3) An employer or labor union of the mortgagor;

(4) Organizations described in section 501(c)(3) and exempt from taxation under section 501(a) of the Internal Revenue Code;

(5) Disaster relief grants; and

(6) Other sources as may be approved by the Secretary on a case-by-case basis.

Dated: September 26, 2007.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 07–4846 Filed 9–28–07; 8:45 am]

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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300-799	(869-062-00046-4)	60.00	Jan. 1, 2007
800-End	(869-062-00047-2)	42.00	Jan. 1, 2007
16 Parts:			
0-999	(869-062-00048-1)	50.00	Jan. 1, 2007
1000-End	(869-062-00049-9)	60.00	Jan. 1, 2007
17 Parts:			
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200-239	(869-062-00052-9)	60.00	Apr. 1, 2007
240-End	(869-062-00053-7)	62.00	Apr. 1, 2007
18 Parts:			
1-399	(869-062-00054-5)	62.00	Apr. 1, 2007
400-End	(869-062-00055-3)	26.00	Apr. 1, 2007
19 Parts:			
1-140	(869-062-00056-1)	61.00	Apr. 1, 2007
141-199	(869-062-00057-0)	58.00	Apr. 1, 2007
200-End	(869-062-00058-8)	31.00	Apr. 1, 2007
20 Parts:			
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400-499	(869-062-00060-0)	64.00	Apr. 1, 2007
500-End	(869-062-00061-8)	63.00	Apr. 1, 2007
21 Parts:			
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100-169	(869-062-00063-4)	49.00	Apr. 1, 2007
170-199	(869-062-00064-2)	50.00	Apr. 1, 2007
200-299	(869-062-00065-1)	17.00	Apr. 1, 2007
300-499	(869-062-00066-9)	30.00	Apr. 1, 2007
500-599	(869-062-00067-7)	47.00	Apr. 1, 2007
600-799	(869-062-00068-5)	17.00	Apr. 1, 2007
800-1299	(869-062-00069-3)	60.00	Apr. 1, 2007
1300-End	(869-062-00070-7)	25.00	Apr. 1, 2007
22 Parts:			
1-299	(869-062-00071-5)	63.00	Apr. 1, 2007
300-End	(869-062-00072-3)	45.00	Apr. 1, 2007
23	(869-062-00073-7)	45.00	Apr. 1, 2007
24 Parts:			
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200-499	(869-062-00075-8)	50.00	Apr. 1, 2007
500-699	(869-062-00076-6)	30.00	Apr. 1, 2007
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1700-End	(869-062-00078-2)	30.00	Apr. 1, 2007
25	(869-062-00079-1)	64.00	Apr. 1, 2007
26 Parts:			
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§§ 1.61-1.169	(869-062-00081-2)	63.00	Apr. 1, 2007
§§ 1.170-1.300	(869-062-00082-1)	60.00	Apr. 1, 2007
§§ 1.301-1.400	(869-062-00083-9)	47.00	Apr. 1, 2007
§§ 1.401-1.440	(869-062-00084-7)	56.00	Apr. 1, 2007
§§ 1.441-1.500	(869-062-00085-5)	58.00	Apr. 1, 2007
§§ 1.501-1.640	(869-062-00086-3)	49.00	Apr. 1, 2007
§§ 1.641-1.850	(869-062-00087-1)	61.00	Apr. 1, 2007
§§ 1.851-1.907	(869-062-00088-0)	61.00	Apr. 1, 2007
§§ 1.908-1.1000	(869-062-00089-8)	60.00	Apr. 1, 2007
§§ 1.1001-1.1400	(869-062-00090-1)	61.00	Apr. 1, 2007
§§ 1.1401-1.1550	(869-062-00091-0)	58.00	Apr. 1, 2007
§§ 1.1551-End	(869-062-00092-8)	50.00	Apr. 1, 2007
2-29	(869-062-00093-6)	60.00	Apr. 1, 2007
30-39	(869-062-00094-4)	41.00	Apr. 1, 2007
40-49	(869-062-00095-2)	28.00	[7] Apr. 1, 2007
50-299	(869-062-00096-1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
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27 Parts:			
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40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
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43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
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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
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1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–062–00116–9)	58.00	July 1, 2007
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32 Parts:			
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700–799	(869–062–00124–0)	46.00	July 1, 2007
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34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
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36 Parts:			
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200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–060–00133–6)	61.00	July 1, 2006
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38 Parts:			
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18–End	(869–060–00136–1)	62.00	July 1, 2006
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52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
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72–80	(869–060–00153–1)	62.00	July 1, 2006
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86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
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150–189	(869–060–00160–3)	50.00	July 1, 2006
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300–399	(869–060–00164–6)	42.00	July 1, 2006
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41 Chapters:			
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42 Parts:			
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43 Parts:			
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45 Parts:			
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46 Parts:			
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47 Parts:			
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7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
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186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
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17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
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200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
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660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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October 2	Oct 17	Nov 1	Nov 16	Dec 3	Dec 31
October 3	Oct 18	Nov 2	Nov 19	Dec 3	Jan 2
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October 25	Nov 9	Nov 26	Dec 10	Dec 24	Jan 23
October 26	Nov 13	Nov 26	Dec 10	Dec 26	Jan 24
October 29	Nov 13	Nov 28	Dec 13	Dec 28	Jan 28
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110th Congress

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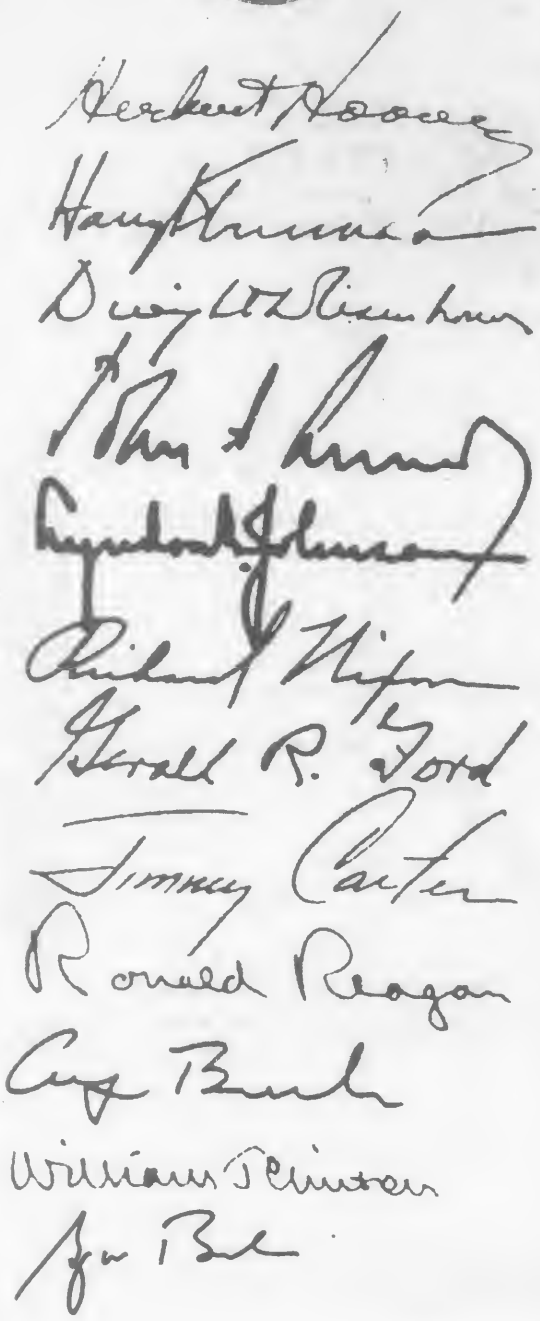

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