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9:00 a.m.–Noon

WHERE: Office of the Federal Register
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Washington, DC 20002

RESERVATIONS: (202) 741-6008



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Presidential Documents

Title 3—

Presidential Determination No. 2007–28 of August 16, 2007

The President

Presidential Determination on Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended (22 U.S.C. 2291–4), I hereby certify, with respect to Colombia, that: (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register** and to notify the Congress of this determination.



THE WHITE HOUSE,
Washington, August 16, 2007.

[FR Doc. 07–4284

Filed 8–29–07; 8:45 am]

Billing code 4710–10

Rules and Regulations

Federal Register

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 101, 105, 115, 117, 120, 121, 124, 125, 126, 134, 136, and 145

RIN 3245-AF64

Agency Titling Procedure Revision; Nomenclature Changes

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to change the titles of certain SBA officials mentioned in the regulations. These nomenclature changes within SBA's management will conform SBA's management titles to those commonly used across the Federal Government. No changes will be made to the responsibilities, reporting relationship, or other regulatory duties of the SBA officials whose titles are changed.

DATES: This final rule is effective August 30, 2007.

FOR FURTHER INFORMATION CONTACT: Richard L. Brechbiel, Chief Human Capital Officer, Office of Human Capital Management, Office of Management and Administration, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416. Tel: (202) 205-6780.

SUPPLEMENTARY INFORMATION: SBA is amending its regulations to reflect the new titles of certain SBA officials. The new titles conform SBA's management titles with those commonly used across the Federal Government. No changes are made to the responsibilities, reporting relationship, or other regulatory duties of the SBA officials whose titles are changed.

Basically, the title "Associate Deputy Administrator" is retired and replaced with the title "Associate Administrator." All current Associate

Administrators will also receive new titles. Heads of program offices that report directly to the Office of the Administrator will receive the title "Assistant Administrator." Heads of program offices that do not report directly to the Office of the Administrator, and report through a new Associate Administrator, will receive the title of "Director" of their respective offices.

The nomenclature changes will help clarify and add transparency to a management structure that has become unwieldy and opaque to our customers, partners, and the public. Almost all of these changes can be made administratively.

SBA has asked for Congressional assistance with changing the few statutory titles that would require legislation to conform to SBA's new title procedures. The statutory titles for SBA officials are: (1) Associate Administrator for Investment; (2) Associate Administrator for Minority Small Business (MSB) and Capital Ownership Development (COD); (3) Associate Administrator for Veterans Business Development (VBD); (4) Associate Administrator for Small Business Development Centers (SBDC); (5) Assistant Administrator for Women's Business Ownership (WBO); (6) Director of the Division of Program Certification and Eligibility; (7) Small Business and Agriculture Regulatory Enforcement Ombudsman; (8) Director of Office of Rural Affairs (ORA); and (9) Chief Counsel for Advocacy.

Savings Provision

This rule shall constitute notice that all references to the old titles cited in SBA rules affected by this Final Rule in any documents, statements, or other communications, in any form or media, and whether made before, on, or after the effective date of this rule, shall be deemed to be references to the new titles. Any actions undertaken in the name of or on behalf of these SBA officials under the old title, whether taken before, on, or after the effective date of this rule, shall be deemed to have been taken in the name of the SBA official under the new title.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866.

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

The provisions of the Administrative Procedures Act (5 U.S.C. 553), requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule.

Because a notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under 5 U.S.C. or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable. Accordingly, this rule is issued in final form.

Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to Richard L. Brechbiel, Chief Human Capital Officer, Office of Human Capital Management, Office of Management and Administration, Small Business Administration, 409 3rd Street, SW.,

Washington, DC 20416. Tel: (202) 205-6780.

List of Subjects

13 CFR Part 101

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies), Reporting and recordkeeping requirements.

13 CFR Part 105

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13 CFR Part 115

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13 CFR Part 117

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13 CFR Part 120

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13 CFR Part 121

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13 CFR Part 124

Administrative practice and procedure, Government procurement, Minority businesses, Reporting and recordkeeping requirements, Small business, Technical assistance.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small business, Technical assistance.

13 CFR Part 126

Administrative practice and procedure, Government procurement, Penalties, Reporting and recordkeeping requirements, Small business.

13 CFR Part 134

Administrative practice and procedure, Claims, Organization and functions (Government agencies).

13 CFR Part 136

Administrative practice and procedure, Civil rights, Federal buildings and facilities.

13 CFR Part 145

Administrative practice and procedure, Grant programs, Loan

programs, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 13 CFR parts 101, 105, 115, 117, 120, 121, 124, 125, 126, 134, 136, and 145 are amended as follows:

PART 101—ADMINISTRATION

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

Authority: 5 U.S.C. 552 and App. 3, secs. 2, 4(a), 6(a), and 9(a)(1)(T); 15 U.S.C. 633, 634, 687; 31 U.S.C. 6506; 44 U.S.C. 3512; E.O. 12372 (July 14, 1982), 47 FR 30959, 3 CFR, 1982 Comp., p. 197, as amended by E.O. 12416 (April 8, 1983), 48 FR 15887, 3 CFR, 1983 Comp., p. 186.

§ 101.105 [Amended]

■ 2. Amend § 101.105 in paragraph (b) as follows:

■ a. Remove “Assistant Administrator for Administration” and add in its place “Director, Office of Business Operations”.

■ b. Remove “Associate Administrator for Minority Enterprise Development” and add in its place “Director, Office of Business Development”.

§ 101.107 [Amended]

■ 3. Section 101.107(b) is amended by removing “Assistant Administrator for Administration” and adding in its place “Director, Office of Business Operations”.

PART 105—STANDARDS OF CONDUCT AND EMPLOYEE RESTRICTIONS AND RESPONSIBILITIES

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

Authority: 5 U.S.C. 7301; 15 U.S.C. 634, 637(a)(18) and (a)(19), 642, and 645(a).

§ 105.401 [Amended]

■ 5. In § 105.401:

■ a. Amend paragraph 105.401(b)(2) as follows:

■ i. Remove “Associate Deputy Administrator for Management and Administration” and add in its place “Associate Administrator, Office of Management and Administration”; and

■ ii. Remove “Assistant Administrator for Administration” and add in its place “Director, Office of Business Operations”.

■ b. Amend paragraph 105.401(b)(3) by removing “Director of Human Resources” and adding in its place “Chief Human Capital Officer”.

PART 115—SURETY BOND GUARANTEE

■ 6. The authority citation for part 115 continues to read as follows:

Authority: 5 U.S.C. app 3; 15 U.S.C. 687b, 687c, 694a, 694b; 694b note, Pub. L. 106-554.

■ 7. Amend § 115.10 by removing the definition for “AA/SG” and adding a definition in alphabetical order for “D/SG” to read as follows:

§ 115.10 Definitions

* * * * *

D/SG means SBA’s Director, Office of Surety Guarantees.

* * * * *

§ 115.11 [Amended]

■ 8. Section 115.11 is amended by removing “AA/SG” and adding in its place “D/SG”.

§ 115.18 [Amended]

■ 9. Section 115.18(d) is amended by removing “AA/SG” and adding in its place “D/SG”.

§ 115.30 [Amended]

■ 10. Section 115.30(c) is amended by removing “AA/SG” each time it appears and adding in its place “D/SG”.

§ 115.60 [Amended]

■ 11. Section 115.60(b) is amended by removing “AA/SG” and adding in its place “D/SG”.

§ 115.64 [Amended]

■ 12. Section 115.64 is amended by removing “AA/SG” and adding in its place “D/SG”.

PART 117—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES OF SBA—EFFECTUATION OF THE AGE DISCRIMINATION ACT OF 1975, AS AMENDED

■ 13. The authority citation for part 117 continues to read as follows:

Authority: Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.*

§ 117.11 [Amended]

■ 14. Sections 117.11(b) and 117.11(d)(4) are amended by removing “Director, Office of Equal Employment Opportunity and Compliance and Chief, Office of Civil Rights Compliance” and adding in its place “Assistant Administrator, Office of Equal Employment Opportunity & Civil Rights Compliance”.

§ 117.15 [Amended]

■ 15. Section 117.15(a)(3) is amended by removing “Chief, Office of Civil Rights Compliance through the Director, Office of Equal Employment Opportunity and Compliance,” and adding in its place “Assistant Administrator, Office of Equal

Employment Opportunity & Civil Rights Compliance”.

PART 120—BUSINESS LOANS

■ 16. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), and 697(a)(2).

§ 120.193 [Amended]

■ 17. Section 120.193 is amended by removing “Associate Administrator for Financial Assistance (AA/FA)” and adding in its place “Director, Office of Financial Assistance (D/FA)”.

§ 120.211 [Amended]

■ 18. Amend section 120.211 as follows:

■ a. In paragraphs (a) and (c) by removing “AA/FA” and adding in its place “D/FA”; and

■ b. In paragraph (b) by removing “Associate Administrator for Minority Enterprise Development” and adding in its place “Director, Office of Business Development”.

§ 120.376 [Amended]

■ 19. Section 120.376 is amended in paragraph (a) by removing “Associate Administrator for Minority Enterprise Development (“MED”)” and adding in its place “Director, Office of Business Development”.

§ 120.424 [Amended]

■ 20. Section 120.424(a) is amended by removing “Associate Administrator for Financial Assistance (AA/FA)” and adding in its place “D/FA”.

§ 120.434 [Amended]

■ 21. Section 120.434(b) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.441 [Amended]

■ 22. Section 120.441(b) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.442 [Amended]

■ 23. Section 120.442 is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.451 [Amended]

■ 24. Section 120.451 is amended in paragraphs (a), (c), (e), and (f) by removing “AA/FA” and adding in its place “D/FA”.

§ 120.455 [Amended]

■ 25. Section 120.455 is amended by removing “AA/FA” each time it appears and adding in its place “D/FA”.

§ 120.553 [Amended]

■ 26. Section 120.553 is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.630 [Amended]

■ 27. Section 120.630 is amended in paragraph (a) introductory text and paragraph (a)(4) by removing “AA/FA” each time it appears, and adding in its place “D/FA”.

§ 120.631 [Amended]

■ 28. Section 120.631 is amended in paragraph (a) introductory text, and paragraph (b), and (c) by removing “AA/FA” each time it appears, and adding in its place “D/FA”.

§ 120.660 [Amended]

■ 29. Section 120.660 is amended in paragraph (a) introductory text, paragraph (b) introductory text, and paragraph (c) by removing “AA/FA” each time it appears and adding in its place “D/FA”.

§ 120.702 [Amended]

■ 30. Section 120.702(b) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.710 [Amended]

■ 31. Amend § 120.710 as follows:

■ a. In paragraph (c) by removing “SBA’s Associate Administrator for Financial Assistance (“AA/FA”) and adding in its place “Director, Office of Financial Assistance (“D/FA”); and

■ b. In paragraphs (c) and (d) and paragraph (e) introductory text, by removing “AA/FA” each time it appears and adding in its place “D/FA”.

§ 120.716 [Amended]

■ 32. Section 120.716 is amended in paragraph (a) introductory text, paragraph (b) introductory text, and paragraph (d) by removing “AA/FA” and adding in its place “D/FA”.

§ 120.810 [Amended]

■ 33. Section 120.810(d) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.812 [Amended]

■ 34. Section 120.812(c) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.837 [Amended]

■ 35. Section 120.837(a) is amended by removing “AA/FA” each time it appears and adding in its place “D/FA”.

§ 120.840 [Amended]

■ 36. Section 120.840(b) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.845 [Amended]

■ 37. Section 120.845(b) is amended by removing “AA/FA” and adding in its place “D/FA”.

§ 120.847 [Amended]

■ 38. Amend § 120.847 as follows:

■ a. In paragraph (h)(2) in the second sentence by removing “AA/FA” and adding in its place “D/FA”;

■ b. In paragraph (h)(2) in the third sentence by removing “AA/FA’s” and adding in its place “D/FA’s”; and

■ c. In paragraph (i) by removing “AA/FA’s” and adding in its place “D/FA’s”.

§ 120.854 [Amended]

■ 39. Section 120.854 is amended in paragraph (a) introductory text, paragraph (b) introductory text, and paragraph (c) introductory text, by removing “AA/FA” and adding in its place “D/FA”.

§ 120.855 [Amended]

■ 40. Section 120.855 is amended in paragraph (a) introductory text, and paragraphs (b), (c), and (d) by removing “AA/FA” and adding in its place “D/FA”.

§ 120.856 [Amended]

■ 41. Section 120.856 is amended in paragraphs (a)(1),(2); (b)(1),(5); (c)(1),(2); (d); and (e)(2),(3) by removing “AA/FA” each time it appears and adding in its place “D/FA”.

§ 120.956 [Amended]

■ 42. Section 120.956 is amended by removing “AA/FA” each time it appears and adding in its place “D/FA”.

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 43. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub. L. 105–135, sec. 401 *et seq.*, 111 Stat. 2592.

§ 121.102 [Amended]

■ 44. Section 121.102(d) is amended by removing “Assistant Administrator for Size Standards” and adding in its place “Division Chief, Office of Size Standards”.

§ 121.903 [Amended]

■ 45. Section 121.903 is amended in paragraphs (a)(2) introductory text, and paragraph (4) by removing “Assistant Administrator for Size Standards” and

adding in its place “Division Chief, Office of Size Standards”.

§ 121.1001 [Amended]

- 46. Amend § 121.1001 as follows:
 - a. In paragraphs (a)(1)(iii), (a)(3)(iv), (a)(5)(iii), (a)(7)(iii) and (a)(8)(iv) and paragraphs (b)(3)(ii), (b)(4)(i), and (b)(9), by removing “Associate Administrator for Government Contracting” and adding in its place “Director, Office of Government Contracting”;
 - b. In paragraph (a)(4)(iii), by removing “Assistant Administrator for Technology” and adding “Division Chief, Office of Technology”;
 - c. In paragraphs (a)(6)(iv) and (b)(8)(ii), remove “Associate Administrator for the HUBZone program” and add “Director, Office of HUBZone”; and
 - d. In paragraph (a)(2)(iii), remove “Associate Administrator for 8(a) Business Development” and add in its place “Director, Office of Business Development”.
 - e. In paragraphs (a)(5)(iii), (b)(2)(i)(B), (b)(2)(ii)(C), and (b)(7)(ii) remove “Associate Administrator for 8(a) BD” and add in its place “Director, Office of Business Development”.
 - f. In paragraph (a)(7)(iii) remove “Associate Administrator for MED” and add in its place “Director, Office of Business Development”.

§ 121.1008 [Amended]

- 47. Amend § 121.1008 as follows:
 - a. In paragraph (a) by removing “AA/HUB” and adding “D/HUB”;
 - b. In paragraph (a) by removing “Assistant Administrator for Technology” and adding “Division Chief, Office of Technology”; and
 - c. In paragraph (a) by removing “AA/8(a) BD” and adding in its place “Director, Office of Business Development”.

§ 121.1103 [Amended]

- 48. Section 121.1103 is amended in paragraph (a) by removing “Associate Administrator for 8(a) Business Development” and adding in its place “Director, Office of Business Development”.

§ 121.1203 [Amended]

- 49. Section 121.1203 is amended by removing “Associate Administrator for Government Contracting” and adding in its place “Director, Office of Government Contracting”.

§ 121.1204 [Amended]

- 50. Section 121.1204 is amended in paragraphs (a)(2), (5), (6), (7)(i); and (b)(2), (3) by removing “SBA Associate Administrator for Government

Contracting” each time it appears, and adding in its place “Director, Office of Government Contracting”.

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

- 51. The authority citation for part 124 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99–661, sec. 1207, Pub. L. 100–656, Pub. L. 101–37, Pub. L. 101–574, and 42 U.S.C. 9815.

§ 124.103 [Amended]

- 52. Section 124.103 is amended in paragraph (b)(3) by removing “Associate Administrator for 8(a)(BD) (AA/8(a)BD)” and adding in its place “Director, Office of Business Development”.

§ 124.105 [Amended]

- 53. Section 124.105 is amended in paragraph (i) by removing “AA/8(a)BD” each time it appears and adding in its place “Director, Office of Business Development”.

§ 124.106 [Amended]

- 54. Section 124.106 is amended in paragraphs (e)(2) and (3) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 124.108 [Amended]

- 55. Section 124.108 is amended in paragraphs (a)(1) and (2) by removing “AA/8(a)BD” each time it appears and adding in its place “Director, Office of Business Development”.

§ 124.109 [Amended]

- 56. Section 124.109 is amended in paragraph (b) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.204 [Amended]

- 57. Section 124.204 is amended in paragraphs (a), (e), and (f) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 124.206 [Amended]

- 58. Section 124.206 is amended in paragraphs (b) and (d) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 124.304 [Amended]

- 59. Section 124.304 is amended in paragraphs (c), (d), and (e) by removing “AA/8(a)BD” and adding in its place

“Director, Office of Business Development”.

§ 124.305 [Amended]

- 60. Section 124.305 is amended in paragraphs (a), (d), and (e) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 124.503 [Amended]

- 61. Section 124.503 is amended in paragraph (a)(5) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 124.504 [Amended]

- 62. Section 124.504 is amended in paragraph (a) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.506 [Amended]

- 63. Section 124.506 is amended in paragraph (c) introductory text, and paragraphs (c)(2), (c)(3) and (d) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.509 [Amended]

- 64. Section 124.509 is amended in paragraph (e)(1) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.517 [Amended]

- 65. Section 124.517 is amended in paragraph (d)(1) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.520 [Amended]

- 66. Section 124.520 is amended in paragraphs (b)(2) and (e)(2) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 124.1008 [Amended]

- 67. Amend § 124.1008 as follows:
 - a. In paragraphs (a) and (f) by removing “Assistant Administrator for Small Disadvantaged Business Certification and Eligibility (AA/SDBCE)” and adding in its place “Division Chief, Small Disadvantaged Business Certification and Eligibility (DC/SDBCE)”.
 - b. In paragraphs (f)(1), (2), (3)(i–ii) and (4) by removing “AA/SDBCE” each time it appears and adding in its place “DC/SDBCE”.

§ 124.1010 [Amended]

■ 68. Section 124.1010(b) introductory text is amended by removing “AA/SDBCE” and adding in its place “DC/SDBCE”.

§ 124.1016 [Amended]

■ 69. Section 124.1016(b) is amended by removing “AA/SDBCE” and adding in its place “DC/SDBCE”.

§ 124.1018 [Amended]

■ 70. Section 124.1018(e) is amended by removing “SBA’s Deputy Associate Deputy Administrator for Government Contracting and Minority Enterprise Development (DADA/GC&MED)” and adding in its place “Associate Administrator for Government Contracting and Business Development (AA/GC&BD)”.

§ 124.1020 [Amended]

■ 71. Section 124.1020 is amended in paragraphs (b)(3), (c)(2), and (d)(1) by removing “AA/SDBCE” and adding in its place “DC/SDBCE”.

§ 124.1022 [Amended]

■ 72. Section 124.1022 is amended in paragraph (a), paragraph (b) introductory text, paragraph (b)(1), and paragraph (c) introductory text, by removing “AA/SDBCE” each time it appears, and adding in its place “DC/SDBCE”.

§ 124.1023 [Amended]

■ 73. Amend § 124.1023 as follows:
■ a. In paragraph (a) by removing “AA/SDBCE” and adding in its place “DC/SDBCE”; and
■ b. In paragraphs (h)(1) and (2) by removing “DADA/GC&MED” each time it appears, and adding in its place “AA/GC&BD”.

§ 124.1024 [Amended]

■ 74. Amend § 124.1024 as follows:
■ a. Paragraphs (a), (b), (g), and (i) by removing “DADA/GC&MED” and adding in its place “AA/GC&BD”; and
■ b. Paragraph (d) by removing “AA/SDBCE” each time it appears, and adding in its place “DC/SDBCE”.

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 75. The authority citation for part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q); 634(b)(6); 637; 644 and 657(f).

§ 125.5 [Amended]

■ 76. Sections 125.5(i)(3) and (j)(2) are amended by removing “Associate Administrator for Government Contracting (AA/GC)” each time it

appears, and adding in its place “Director, Office of Government Contracting (D/GC)”.

§ 125.6 [Amended]

■ 77. Section 125.6(d)(1) is amended by removing “Associate Administrator of the Office of Government Contracting” and adding in its place “Director, Office of Government Contracting”.

§ 125.25 [Amended]

■ 78. Sections 125.25(c) and (e) are amended by removing “Associate Administrator for Government Contracting” and adding in its place “Director, Office of Government Contracting”.

§ 125.26 [Amended]

■ 79. Section 125.26(a) is amended by removing “Associate Administrator for Government Contracting” and adding in its place “Director, Office of Government Contracting”.

PART 126—HUBZONE PROGRAM

■ 80. The authority citation for part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p) and 657a.

■ 81. Amend § 126.103 as follows:

■ a. By removing the definition of “AA/BD” and adding a new definition to read as follows:

■ b. By removing the definition of “AA/HUB” and adding a new definition to read as follows: and

■ c. By removing the definition of “ADA/GC&8(a)BD” and adding a new definition to read as follows:

§ 126.103 What definitions are important in the HUBZone program.

* * * * *

“D/BD means SBA’s Director, Office of Business Development”;

* * * * *

“D/HUB means SBA’s Director Office of HUBZone”;

* * * * *

“AA/GC&BD means Associate Administrator, Office of Government Contracting & Business Development”.

* * * * *

§ 126.303 [Amended]

■ 82. Section 126.303 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.306 [Amended]

■ 83. Section 126.306(a) is amended by removing “AA/HUB” each time that it appears and adding in its place “D/HUB”.

§ 126.307 [Amended]

■ 84. Section 126.307 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.308 [Amended]

■ 85. Section 126.308 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.400 [Amended]

■ 86. Section 126.400 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.403 [Amended]

■ 87. Section 126.403(a) is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.501 [Amended]

■ 88. Section 126.501 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.503 [Amended]

■ 89. Section 126.503 is amended in paragraphs (a), (b), and (c) by removing “AA/HUB” each time it appears and adding in its place “D/HUB”.

§ 126.606 [Amended]

■ 90. Amend § 126.606 as follows:

■ a. By removing “AA/BD” and adding in its place “D/BD”; and

■ b. By removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.610 [Amended]

■ 91. Section 126.610(b) is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.801 [Amended]

■ 92. Section 126.801 is amended in paragraph (c)(2) and paragraph (e) by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.802 [Amended]

■ 93. Section 126.802 is amended by removing “AA/HUB” and adding in its place “D/HUB”.

§ 126.803 [Amended]

■ 94. Section 126.803(d) is amended by removing “ADA/GC&BD” and adding in its place “AA/GC&BD”.

PART 134—RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

■ 95. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 504; 15 U.S.C. 632, 634(b)(6), 637(a), 648(l), 656(i), and 687(c); E.O. 12549, 51 FR 6370, 3 CFR 1986 Comp., p. 189.

§ 134.302 [Amended]

■ 96. Section 134.302 is amended in paragraph (b) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 134.403 [Amended]

■ 97. Section 134.403 is amended in paragraphs (a) and (b) by removing “AA/8(a)BD” and adding in its place “Director, Office of Business Development”.

§ 134.406 [Amended]

■ 98. Section 134.406 is amended in paragraph (e) by removing “AA/8(a)BD” each time it appears, and adding in its place “Director, Office of Business Development”.

§ 134.501 [Amended]

■ 99. Amend § 134.501 as follows:

■ a. By removing “Associate Administrator for Government Contracting (AA/GC)” and adding in its place “Director, Office of Government Contracting (D/GC)”.

■ b. By removing “AA/GC” and adding in its place “D/GC”.

§ 134.505 [Amended]

■ 100. Sections 134.505(a)(2) and (b)(1) are amended by removing “AA/GC” and adding in its place “D/GC”.

§ 134.507 [Amended]

■ 101. Section 134.507 is amended by removing “AA/GC” each time it appears, and adding in its place “D/GC”.

§ 134.508 [Amended]

■ 102. Section 134.508 is amended by removing “AA/GC’s” and adding in its place “D/GC’s”.

§ 134.515 [Amended]

■ 103. Section 134.515(c) is amended by removing “AA/GC” and adding in its place “D/GC”.

PART 136—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE SMALL BUSINESS ADMINISTRATION

■ 104. The authority citation for part 136 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 136.170 [Amended]

■ 105. Amend § 136.170 as follows:

■ a. In paragraph (c)(2) by removing “Chief, Office of Civil Rights Compliance (OCRC)” and adding in its place “Assistant Administrator, Office of Equal Employment Opportunity &

Civil Rights Compliance (AA/EEOCCR)”;

■ b. In paragraphs (c)(3), (c)(4); paragraphs (e)(1–3) introductory text; paragraphs (f)(1–3); paragraph (g) introductory text; paragraphs (g)(4); (h)(1), (h)(3), (h)(4)(i) introductory text; and paragraphs (i)(1–2) and; (j)(4) by removing “Chief, OCRC” each time it appears and adding in its place “AA/EEOCCR”; and

■ c. In paragraphs (h)(1, 3 and 4); (i)(1); and (j)(1–3), by removing “Director, OEOEC” each time it appears, and adding in its place “AA/EEOCCR”.

PART 145—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

■ 106. The authority citation for part 145 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 15 U.S.C. 631 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738, 3 CFR 1973 Comp., p. 799; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

§ 145.935 [Amended]

■ 107. In § 145.935:

■ a. Paragraph (b) is amended by removing “Assistant Administrator for Lender Oversight” and adding in its place “Director, Office of Credit Risk Management”.

■ b. Paragraph (b) is amended by removing “Assistant Administrator for Administration” and adding in its place “Director, Office of Business Operations”.

§ 145.1010 [Amended]

■ 108. In § 145.1010:

■ a. Paragraph (b) is amended by removing “Assistant Administrator for Lender Oversight” and adding in its place “Director, Office of Credit Risk Management”.

■ b. Paragraph (b) is amended by removing “Assistant Administrator for Administration” and adding in its place “Director, Office of Business Operations”.

Dated: August 23, 2007.

Steven C. Preston,

Administrator.

[FR Doc. E7–17130 Filed 8–29–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2007–29073; Directorate Identifier 2007–NM–178–AD; Amendment 39–15184; AD 2007–18–04]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A330 and A340 Airplanes

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

ACTION: Final rule; request for comments.

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

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabiliser compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective September 14, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of September 14, 2007.

On June 26, 2007 (72 FR 31973, June 11, 2007), the Director of the Federal Register approved the incorporation by reference of certain other publications.

We must receive comments on this AD by October 1, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:*

Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery:* Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647-5527) is located on the ground floor of the West Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2797; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

On May 30, 2007, we issued AD 2007-12-10, Amendment 39-15088 (72 FR 31973, June 11, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007-12-10, it has been determined that the drive end bearing (DEB) failures did not occur instantly, and small debris in the filter could be detected before collapse of the DEB. The one-time inspection mandated by AD 2007-12-10 only detects large debris.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive (EAD) 2007-0188R1, dated July 24, 2007 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabiliser compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might

reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition.

Further detailed investigations are ongoing to determine the root causes. It has been evidenced that for both events, this unknown root cause initiates a collapse of the Drive End Bearing (DEB) leading to an uncontained failure. Evidence shows also that the DEB failures were not instantaneous, and therefore, the detection of small debris could indicate early stage of DEB failure.

A one-time inspection for detection of large-scale debris in the Generator Scavenge inlet screen (last chance filter) of the APU allowing to identify APU Generator in a state close to failure has been rendered mandatory by Airworthiness Directive (AD) 2007-0080-R1 [that AD corresponds to FAA AD 2007-12-10].

The original Emergency Airworthiness Directive (AD) 2007-0188-E mandated a repetitive inspection of the APU Generator Scavenge filter element and filter housing and APU Generator Drain plug for signs of small debris coming from the APU Generator and therefore to detect any APU Generator failure in an early stage.

* * * * *

The corrective action includes retaining the requirements of the existing AD (a one-time inspection of the inlet screen and, for certain airplanes, a check of the differential pressure indicator button, and applicable corrective actions). The corrective action adds repetitive inspections of the APU Generator scavenge oil filter element and housing and the APU Generator drain plug for signs of metallic debris, and applicable corrective actions. Those corrective actions include shipping the debris to Airbus or Goodrich. The corrective actions also include the following:

- Replacing the APU generator scavenge oil filter for airplanes on which metallic debris is found.
- Inspecting the inside filter element and outer diameter of the filter housing for damage to the packing and replacing the packing if damaged.
- Cleaning the generator drain plug and reinstalling the plug with a new seal for airplanes on which no metallic debris or metallic debris within acceptable criteria is found.
- Keeping the APU inoperative.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued All Operators Telexes (AOTs) A330-24A3044 and A340-24A5021, both Revision 01, both dated July 20, 2007; and AOT A340-24A4057, Revision 02, dated August 14, 2007. The actions described in this service information are intended to

correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an uncontained APU failure can lead to damage to the APU fire wall, which might reduce its fire extinguishing capability, possibly leading to an uncontrolled fire. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2007-29073; Directorate Identifier 2007-NM-178-

AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Amendment 39–15088 (72 FR 31973, June 11, 2007) and adding the following new AD:

2007–18–04 Airbus: Amendment 39–15184. Docket No. FAA–2007–29073; Directorate Identifier 2007–NM–178–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 14, 2007.

Affected ADs

(b) This AD supersedes AD 2007–12–10.

Applicability

(c) This AD applies to Airbus Model A330 and A340 airplanes; certificated in any category; all certified models, all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical power.

Reason

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

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabilizer compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition.

Further detailed investigations are ongoing to determine the root causes. It has been evidenced that for both events, this unknown root cause initiates a collapse of the Drive End Bearing (DEB) leading to an uncontained failure. Evidence shows also that the DEB failures were not instantaneous, and therefore, the detection of small debris could indicate an early stage of DEB failure.

A one-time inspection for detection of large-scale debris in the Generator Scavenge inlet screen (last chance filter) of the APU allowing to identify APU Generator in a state

close to failure has been rendered mandatory by Airworthiness Directive (AD) 2007–0080–R1 [that AD corresponds to FAA AD 2007–12–10].

The original Emergency Airworthiness Directive (AD) 2007–0188–E mandated a repetitive inspection of the APU Generator Scavenge filter element and filter housing and APU Generator Drain plug for signs of small debris coming from the APU Generator and therefore to detect any APU Generator failure in an early stage.

The corrective action includes retaining the requirements of the existing AD (a one-time inspection of the inlet screen and, for certain airplanes, a check of the differential pressure indicator button, and applicable corrective actions). The corrective action adds repetitive inspections of the APU Generator scavenge oil filter element and housing and the APU Generator drain plug for signs of metallic debris, and applicable corrective actions. Those corrective actions include shipping the debris to Airbus or Goodrich. The corrective actions also include the following: Replacing the APU generator scavenge oil filter for airplanes on which metallic debris is found; inspecting the inside filter element and outer diameter of the filter housing for damage to the packing and replacing the packing if damaged; cleaning the generator drain plug and reinstalling the plug with a new seal for airplanes on which no metallic debris or metallic debris within acceptable criteria is found; or keeping the APU inoperative.

Restatement of Requirements of AD 2007–12–10

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

(1) For airplanes on which the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness is before March 1, 2007: Within 63 days after June 26, 2007, in accordance with the instructions of Airbus All Operators Telex (AOT) A330–24A3042, A340–24A4056, or A340–24A5020, all Revision 02, all dated April 12, 2007; as applicable: Inspect the inlet screen (last chance filter) for the generator scavenge-oil pump for signs of debris and, as applicable, apply all associated corrective actions before further flight.

(2) For Model A330 aircraft operating under MMEL (master minimum equipment list) Item 24–22–01 “AC Main Generation” or MMEL Item 36–11–01 “Bleed Air Supply System Failure” and on which the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness is before March 1, 2007: As of June 26, 2007, before each flight, perform a check of the differential pressure indicator button on the lube filter and the generator scavenge filter in accordance with the instructions of Airbus AOT A330–24A3042, Revision 02, dated April 12, 2007, until accomplishment of paragraph (g)(5) of this AD.

Note 1: The repetitive checks before each flight specified in paragraph (f)(2) of this AD are not required for airplanes operated under

MMEL Item 36–11–01, provided the APU generator has been removed or deactivated in accordance with the instructions of Airbus

AOT A330–24A3042, Revision 02, dated April 12, 2007.
(3) Actions done before June 26, 2007, in accordance with the applicable Airbus

service information in Table 1 of this AD are acceptable for compliance with the corresponding provisions of paragraph (f) of this AD.

TABLE 1.—ACCEPTABLE EARLIER REVISIONS OF SERVICE INFORMATION

Airbus all operators telex	Revision level	Date
A330–24A3042	Original	March 22, 2007.
A330–24A3042	01	March 29, 2007.
A340–24A4056	Original	March 22, 2007.
A340–24A4056	01	March 29, 2007.
A340–24A5020	Original	March 22, 2007.
A340–24A5020	01	March 29, 2007.

New Requirements of This AD: Actions and Compliance

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

(1) For airplanes on which the date of issuance of the original French standard

airworthiness certificate or the date of issuance of the original French export certificate of airworthiness is on or before July 1, 2007: Within 30 days after the effective date of this AD, in accordance with the instructions of paragraph 4.2.1 of the applicable Airbus service information

specified in Table 2 of this AD: Clean and inspect the APU Generator scavenge oil filter element and housing and inspect the APU generator drain plug to detect metallic debris, and apply all applicable associated corrective actions before further flight.

TABLE 2.—SERVICE INFORMATION

Airbus all operators telex	Revision level	Date
A330–24A3044	01	July 20, 2007.
A340–24A4057	02	August 14, 2007.
A340–24A5021	01	July 20, 2007.

(2) Within 450 aircraft flight hours or 200 APU operating hours, whichever occurs later, after accomplishing the inspection required by paragraph (g)(1) of this AD, in accordance with the instructions of paragraph 4.2.2 of the applicable Airbus service information specified in Table 2 of this AD: Inspect the APU generator scavenge oil filter element and housing and the APU generator drain plug to detect metallic debris; and apply all applicable associated corrective actions before further flight. Repeat the inspections thereafter at intervals not to exceed 450

aircraft flight hours or 200 APU operating hours, whichever occurs later.

(3) For airplanes on which the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness is after July 1, 2007: Within 450 aircraft flight hours or 200 APU operating hours after the effective date of this AD, whichever occurs later, in accordance with the instructions of paragraph 4.2.2 of the applicable Airbus service information specified in Table 2 of this AD: Inspect the APU generator scavenge

oil filter element and housing and the APU generator drain plug to detect metallic debris; and apply all applicable associated corrective actions before further flight. Repeat the inspections thereafter at intervals not to exceed 450 aircraft flight hours or 200 APU operating hours, whichever occurs later.

(4) Actions done before the effective date of this AD, in accordance with the applicable Airbus service information in Table 3 of this AD are acceptable for compliance with the corresponding provisions of paragraph (g) of this AD.

TABLE 3.—ACCEPTABLE EARLIER REVISIONS OF SERVICE INFORMATION

Airbus all operators telex	Revision level	Date
A330–24A3044	Original	July 5, 2007.
A340–24A4057	Original	July 5, 2007.
A340–24A4057	01	July 20, 2007.
A340–24A5021	Original	July 5, 2007.

(5) For Model A330 aircraft operating under MMEL Item 24–22–01, “AC Main Generation,” or MMEL Item 36–11–01, “Bleed Air Supply System Failure”: Unless the APU generator has been deferred in accordance with the MMEL by deactivation (quill shaft removed) or removal, the inspection required by paragraph (g)(2) or (g)(3), as applicable, of this AD must be performed prior to the first flight of the specified MMEL repair time interval. Accomplishing the actions in this paragraph terminates the actions required by paragraph (f)(2) of this AD.

Note 2: For A330 aircraft, MMEL Item 24–22–01 (AC Main Generation) and/or MMEL Item 36–11–01 (Bleed Air Supply System Failure) require that the APU be used during the entire flight.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District

Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(i) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) Airworthiness Directive (EAD) 2007-0188R1, dated July 24, 2007, and the AOTs specified in Table 2 of this AD, for related information.

Material Incorporated by Reference

(j) You must use the applicable Airbus service information specified in Table 4 of this AD to do the actions required by this AD, unless the AD specifies otherwise. (Only the first page of these documents contains the document number, revision level, and date; no other pages of these documents contain this information.)

(1) The Director of the Federal Register approved the incorporation by reference of the Airbus service information specified in

Table 5 of this AD under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of the Airbus service information specified in Table 6 of this AD on June 26, 2007 (72 FR 31973, June 11, 2007).

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

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

TABLE 4.—ALL MATERIAL INCORPORATED BY REFERENCE

Airbus all operators telex	Revision level	Date
A330-24A3042	02	April 12, 2007.
A330-24A3044	01	July 20, 2007.
A340-24A4056	02	April 12, 2007.
A340-24A4057	02	August 14, 2007.
A340-24A5020	02	April 12, 2007.
A340-24A5021	01	July 20, 2007.

TABLE 5.—NEW MATERIAL INCORPORATED BY REFERENCE

Airbus all operators telex	Revision level	Date
A330-24A3044	01	July 20, 2007.
A340-24A4057	02	August 14, 2007.
A340-24A5021	01	July 20, 2007.

TABLE 6.—MATERIAL PREVIOUSLY INCORPORATED BY REFERENCE

Airbus all operators telex	Revision level	Date
A330-24A3042	02	April 12, 2007.
A340-24A4056	02	April 12, 2007.
A340-24A5020	02	April 12, 2007.

Issued in Renton, Washington, on August 21, 2007.

Daniel I. Cheney,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-17011 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2007-27911; Airspace Docket No. 07-ANM-8]

Revision of Class E Airspace; Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will establish Class E surface airspace at Hailey, ID. Controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Required Navigational Performance (RNP) Instrument Approach Procedure (IAP) at Friedman Memorial Airport, Hailey, ID.

DATES: *Effective Date:* 0901 UTC, December 20, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601

Lind Avenue, SW., Renton, WA 98057; telephone (425) 917-6726.

SUPPLEMENTARY INFORMATION:

History

On June 1, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class E airspace at Hailey, ID (72 FR 30498). This action would improve the safety of IFR aircraft at Friedman Memorial Airport, Hailey, ID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace

designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Hailey, ID. Additional controlled airspace is necessary to accommodate IFR aircraft at Friedman Memorial Airport, Hailey, ID.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866;

(2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006 is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

ANM ID E5 Hailey, ID [Revised]

Friedman Memorial Airport, ID
(Lat. 43°30'14" N., long. 114°17'45" W.)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Friedman Memorial Airport, and within 2 miles west and 5.5 miles east of the 328° bearing from the airport extending from the 5.5-mile radius to 10 miles northwest of the airport, and within 2 miles west and 4 miles east of the 159° bearing from the airport extending from the 5.5-mile radius to 15.5 miles southeast of the airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°00'00" N., long. 114°55'00" W., thence to lat. 44°00'00" N., long. 113°53'00" W., thence to lat. 43°00'00" N., long. 113°49'00" W., thence to lat. 43°00'00" N., long. 114°55'00" W., thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on August 20, 2007.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E7–17069 Filed 8–29–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 515, 537, 538, and 560

Cuban Assets Control Regulations, Burmese Sanctions Regulations, Sudanese Sanctions Regulations, and Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is revising the general license for certain publishing activities contained in the Cuban Assets Control Regulations, Burmese Sanctions Regulations, Sudanese Sanctions Regulations, and Iranian Transactions Regulations.

DATES: *Effective Date:* August 30, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of

Foreign Assets Control ("OFAC") are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

On December 17, 2004, the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury amended the Cuban Assets Control Regulations, 31 CFR Part 515 (the "CACR"), the Sudanese Sanctions Regulations, 31 CFR Part 538 (the "SSR"), and the Iranian Transactions Regulations, 31 CFR Part 560 (the "ITR"), to authorize certain activities related to publishing. See 69 FR 75468 (December 17, 2004). OFAC added §§ 515.577, 538.529, and 560.538 to the CACR, SSR, and ITR, respectively, to authorize by general license transactions not already exempt from regulation that support the publishing and marketing of manuscripts, books, journals, and newspapers in paper and electronic format ("written publications"). On August 16, 2005, OFAC amended and reissued the Burmese Sanctions Regulations, 31 CFR Part 537 (the "BSR") including, at § 537.526, a general license for the same publishing-related transactions.

OFAC is amending these general licenses in various places to authorize the augmentation of written publications in electronic format through the addition of embedded software necessary for reading, browsing, navigating, or searching the written publications as well as the exportation of such embedded software provided certain conditions are met. These amendments also clarify that the term "written publications" used in the general licenses includes manuscripts, books, journals, and newspapers even if they are published solely in electronic format. A note is added to each general license clarifying that the importation and exportation of information or informational materials are exempt from the prohibitions and regulations contained in the CACR, SSR, and ITR and, in the case of the BSR, clarifying that the importation of informational materials is authorized and the exportation of informational materials is exempt from the prohibitions and regulations of the BSR. These amendments also make various other technical corrections, clarifications, and conforming changes.

Public Participation; Procedural Requirements

Because the CACR, BSR, SSR, and ITR involve a foreign affairs function, the provisions of Executive Order 12866

and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR parts 515, 537, 538, and 560 are contained in 31 CFR part 501. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 515

Administrative practice and procedure, Cuba, Exports, Foreign trade, Imports, Information.

31 CFR Part 537

Administrative practice and procedure, Burma, Exports, Foreign trade, Imports, Information.

31 CFR Part 538

Administrative practice and procedure, Exports, Foreign trade, Imports, Information, Sudan.

31 CFR Part 560

Administrative practice and procedure, Exports, Foreign trade, Iran, Imports, Information.

■ For the reasons set forth in the preamble, OFAC amends 31 CFR parts 515, 537, 538, and 560 as follows:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

■ 1. The authority citation for part 515 continues to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Section 515.577 is revised to read as follows:

§ 515.577 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, persons subject to the jurisdiction of the United States are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, “written publications”).

This section does not apply if the parties to the transactions described in this paragraph include the Government of Cuba. For the purposes of this section, the term “Government of Cuba” includes the state and the Government of Cuba, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Cuba; any person occupying the positions identified in § 515.570(a)(3); employees of the Ministry of Justice; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term “Government of Cuba” does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that persons subject to the jurisdiction of the United States ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that, to the extent a license is required under the Export Administration Regulations, 15 CFR parts 730 through 774 (the “EAR”), the exportation is licensed or otherwise

authorized by the Department of Commerce under the provisions of the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize persons subject to the jurisdiction of the United States:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Cuba;

(3) To engage in the exportation or importation of goods to or from Cuba other than the exportation of embedded software described in paragraph (a)(3)(ii) of this section;

(4) To operate a publishing house, sales outlet, or other office in Cuba; or

(5) To engage in transactions related to travel to, from, or within Cuba.

Note to paragraph (b): The importation from Cuba and the exportation to Cuba of information or informational materials, as defined in § 515.332, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part. See § 515.206(a).

(c) This section does not authorize persons subject to the jurisdiction of the United States to engage the services of publishing houses or translators in Cuba unless such activity is primarily for the dissemination of written publications in Cuba.

(d) This section does not authorize:

(1) Transactions for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the "ITAR"), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

(e) Pursuant to § 515.564, specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to attendance of professional meetings that are necessary and ordinarily incident to the publishing and marketing of written publications.

PART 537—BURMESE SANCTIONS REGULATIONS

■ 1. The authority citation for part 537 is amended to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Sec. 570 Pub. L. 104–208, 110 Stat. 3009; Pub. L. 108–61, 117 Stat. 864; Pub. L. 109–177, 120 Stat. 192; E.O. 13047, 62 FR 28301, 3 CFR 1997 Comp., p. 202; E.O. 13310, 68 FR 44853, 3 CFR 2004 Comp., p. 2411.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Section 537.526 is revised to read as follows:

§ 537.526 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions otherwise prohibited by § 537.201 or § 537.202 that are necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, "written publications"). This section does not apply if the parties to the transactions described in this paragraph include the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma; any successor entity to any of the foregoing entities; or any person, other than personnel of academic and research institutions, acting or purporting to act directly or indirectly on behalf of the foregoing entities with respect to the transactions described in this paragraph. Pursuant to this section, transactions incident to the following activities are authorized, provided they do not involve any importations prohibited by § 537.203 that are not authorized by another section of this part 537, and further provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that, to the extent a license is required under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"), the exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that are not necessary and ordinarily incident to the publishing and marketing of written publications as described paragraph (a) of this section. For example, this section does not authorize U.S. persons to transfer funds to Burma relating to the following:

(1) The provision or receipt of individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) The creation or undertaking of a marketing campaign for any person with respect to any service or product other than a written publication, or the creation or undertaking of a marketing campaign of any kind for the benefit of the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma; or

(3) The operation of a publishing house, sales outlet, or other office in Burma.

Note to paragraph (b): The importation of information or informational materials, as defined in § 537.308, that are products of Burma is authorized by the general license set forth in § 537.515. The exportation to Burma of information or informational materials, as defined in § 537.308, whether commercial or otherwise, regardless of format or medium of transmission, is exempt from the prohibitions and regulations of this part. See § 537.210(b).

(c) This section does not authorize U.S. persons to engage in transactions constituting the exportation or reexportation of financial services to Burma that relate to the services of publishing houses or translators in Burma unless such activity is primarily for the dissemination of written publications in Burma.

(d) This section does not authorize:

(1) The importation into the United States of any article that is a product of Burma.

Note to paragraph (d)(1): The importation of information or informational materials, as defined in § 537.308, that are products of Burma is authorized by the general license set forth in § 537.515.

(2) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the "ITAR"), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

PART 538—SUDANESE SANCTIONS REGULATIONS

■ 1. The authority citation for part 538 is amended to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 18 U.S.C. 2339B, 2332d; 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 106–387, 114 Stat. 1549; Pub. L. 109–177, 120 Stat. 192; E.O. 13067, 62 FR 59989; 3 CFR, 1997 Comp., p. 230.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Section 538.529 is revised to read as follows:

§ 538.529 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, "written publications"). This section does not apply if the parties to the transactions described in this paragraph include the Government of Sudan. For the purposes of this section, the term "Government of Sudan" includes the state and the Government of Sudan, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Sudan, and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term "Government of Sudan" does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written

publication in electronic format, provided that the software is classified as "EAR 99" under the Export Administration Regulations, 15 CFR parts 730–774 (the "EAR"), or is not subject to the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Sudan;

(3) To engage in the exportation or importation of goods to or from Sudan other than the exportation of embedded software described in paragraph (a)(3)(ii) of this section; or

(4) To operate a publishing house, sales outlet, or other office in Sudan.

Note to paragraph (b): The importation from Sudan and the exportation to Sudan of information or informational materials, as defined in § 538.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part. See § 538.211(c).

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Sudan unless such activity is primarily for the dissemination of written publications in Sudan.

(d) This section does not authorize:

(1) The exportation from or importation into the United States of

services for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the "ITAR"), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

PART 560—IRANIAN TRANSACTIONS REGULATIONS

■ 1. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 365; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 2. Section 560.538 is revised to read as follows:

§ 560.538 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in

paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, "written publications"). This section does not apply if the parties to the transactions described in this paragraph include the Government of Iran. For the purposes of this section, the term "Government of Iran" includes the state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof, which includes the Central Bank of Islamic Republic of Iran, and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term "Government of Iran" does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that the software is classified as "EAR 99" under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"), or is not subject to the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Iran;

(3) To engage in the exportation or importation of goods to or from Iran other than the exportation of embedded software described in paragraph (a)(3)(ii); or

(4) To operate a publishing house, sales outlet, or other office in Iran.

Note to paragraph (b): The importation from Iran and the exportation to Iran of information or informational materials, as defined in § 560.315, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part. See § 560.210(c).

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Iran unless such activity is primarily for the dissemination of written publications in Iran.

(d) This section does not authorize:

(1) The exportation from or importation into the United States of services for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the "ITAR"), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is

controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

Dated: August 21, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7-17054 Filed 8-29-07; 8:45 am]

BILLING CODE 4811-42-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. CGD11-07-013]

Drawbridge Operation Regulations; Sacramento River, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Rio Vista Drawbridge across the Sacramento River, mile 12.8, at Rio Vista, CA. The deviation is necessary to allow the bridge owner, the California Department of Transportation (Caltrans), to conduct required maintenance of the drawspan. This deviation allows for a 4-hour notice for openings.

DATES: This deviation is effective from 9 p.m. September 5, 2007 through 5 a.m. on October 21, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50-2, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal

holidays. The telephone number is (510) 437-3516. The Eleventh Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT:

David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Rio Vista Drawbridge, mile 12.8, Sacramento River, at Rio Vista, CA. The Rio Vista Drawbridge navigation span provides a vertical clearance of 17 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway consists of both commercial and recreational vessels.

This deviation allows the bridge to require a 4-hour notice for openings. The 4-hour notice for openings during the maintenance period, from 9 p.m. September 5, 2007 through 5 a.m. on October 21, 2007, will allow Caltrans to clear the drawspan of maintenance equipment so as not to delay approaching vessels. This temporary deviation has been coordinated with all affected waterway users. No objections to the proposed temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 22, 2007.

C.E. Bone,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. E7-17146 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 161 and 165

[CGD01-04-133]

RIN 1625-AB17

Regulated Navigation Area; Buzzards Bay, MA; Navigable Waterways Within the First Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard revises the regulations governing the Regulated Navigation Area (RNA) in First Coast Guard District waters to require that certain tank vessels and tug/barge combinations transiting Buzzards Bay, Massachusetts, be accompanied by escort tugs and pilots operating under a properly endorsed Federal pilot's license. The Coast Guard establishes a Vessel Movement Reporting System (VMRS) for Buzzards Bay, and requires mandatory participation in the VMRS by vessels subject to the Vessel Bridge-to-Bridge VHF Radiotelephone regulations, including tug/barge combinations. The purpose of this rule is to reduce the likelihood of an incident that might result in a collision, allision, or grounding and the aftermath discharge or release of oil or hazardous material into the navigable waters of the United States.

DATES: This rule is effective November 28, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket and are available for inspection and copying at the offices of Commander, Coast Guard Sector Southeastern New England, East Providence office, 20 Risho Avenue, East Providence, RI 02914, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward G. LeBlanc at Coast Guard Sector Southeastern New England, East Providence, RI, 401-435-2351.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 29, 2006, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in Volume 71, No. 60, pages 15649 to 15656 of the **Federal Register**, under the heading "Navigation and Waterways Management Improvements, Buzzards Bay, MA". We received 17 comments on the proposed rule. No public meeting was requested and none was held. Pursuant to issues and obligations discussed in *Federalism* below, on September 13, 2006, the Coast Guard held a consultation meeting for Massachusetts cities and towns that border Buzzards Bay. The city of New Bedford and the town of Westport sent representatives to this meeting and were consulted on the Coast Guard's actions with respect to this rulemaking process and their federalism implications. On October 11, 2006, the Coast Guard held a similar consultative meeting with the Acting Commissioner of the

Massachusetts Department of Environmental Protection.

Background and Purpose

Congress designated Buzzards Bay as an Estuary of National Significance in 1985, one of only five estuaries in the U.S. so designated. The Bay has some of Massachusetts' most productive shellfish beds. It interacts with three very different marine systems, the Atlantic Ocean to the south, Vineyard Sound to the east, and Cape Cod Bay to the north. In 2002, there were nearly 10,000 commercial vessel transits and over 1,200 tank barge transits in Buzzards Bay. An estimated 80% of those tank barges were single hull vessels. Note that the term "single hull" and other terms used in this rule have the same meaning as those found in Title 33, Code of Federal Regulations (CFR), § 165.100(b).

Since 1969 there have been several significant incidents of tank barge groundings with oil spills in Buzzards Bay. These included the grounding of the tank barge *Florida* in 1969 with a spill of approximately 175,000 gallons of No. 2 fuel oil; the grounding of the tank barge *Bouchard* in 1977 with a spill of approximately 81,000 gallons of No. 2 fuel oil; the grounding of the tank barge *ST-85* in 1986 with a spill of approximately 119,000 gallons of gasoline; the grounding of the tug *Marie J. Turecamo* and its asphalt-laden barge in 1999; the grounding of the tug *Mary Turecamo* and its barge *Florida* in 1999 carrying 4.7 million gallons of No. 6 fuel oil; and the grounding of the barge *B-120* in April 2003 with a spill of No. 6 oil estimated to be of approximately 22,000 to 98,000 gallons.

Groundings, allisions, or collisions of single hull tank barges could lead to a significant discharge or release of oil or other hazardous materials, as demonstrated by the incidents noted above, with potentially significant adverse impacts to people, property, the coastal and maritime environment, and the local economy. The purpose of these navigation safety and waterways management regulations for Buzzards Bay is to reduce the likelihood of another incident that might result in the discharge or release of oil or hazardous material, or other serious harm, on the navigable waters of the United States.

After a previous oil spill from the tank barge *North Cape* off of Point Judith, Rhode Island, in 1996, the Coast Guard chartered a Regional Risk Assessment Team (RRAT), comprised of government, commercial, and environmental entities, to examine navigation safety issues within New England waters. The RRAT

recommended, and the Coast Guard implemented, a Regulated Navigation Area (RNA) that imposed certain requirements on single hulled tank barges transiting New England waters, including Buzzards Bay. Regulations governing the RNA in First Coast Guard District waters are contained in 33 CFR 165.100.

Subsequent to an oil spill in Buzzards Bay in April, 2003, noted above, the Coast Guard sponsored a Ports and Waterways Safety Assessment (PAWSA), which was conducted by a cross-section of key Buzzards Bay waterways users and stakeholders, resulting in numerous suggestions for improving navigation safety in the Bay. The safety assessment process is a disciplined approach to identify major waterway safety hazards, estimate risk levels, evaluate potential mitigation measures, and set the stage for implementation of selected measures to reduce risk. The process involved convening a select group of waterway users/stakeholders and conducting a two-day structured workshop to meet these objectives. The assessment process represents a significant part of joint public-private sector planning for mitigating risk in waterways. When applied consistently and uniformly in a number of waterways, the process provides a basis for making best value decisions for risk mitigation investments, both on the local and national level. For further information on the PAWSA project go to: http://www.navcen.uscg.gov/mwv/projects/pawsa/PAWSA_home.htm.

The PAWSA report suggested, in part, that the risk for oil or hazardous material discharge in Buzzards Bay is relatively high, and that one method of reducing that risk, among many that were suggested, might be to "establish requirements for escort tugs." (The PAWSA report is available in docket CGD01-04-133. See **ADDRESSES** above on procedures to access the docket.) The PAWSA also recommended that Recommended Vessel Routes be established to help assist vessel traffic and provide a safer transit route for commercial vessels.

Additionally, in a letter from several members of the U.S. Congressional delegation from Massachusetts, the Coast Guard was asked to consider measures similar to those recommended in the PAWSA, specifically: Assist tugs, Recommended Routes, and an Automatic Identification System (AIS). This letter, along with the Coast Guard's response, is available in the docket.

The Automatic Identification System (AIS) is a maritime navigation safety communications system standardized

by the International Telecommunication Union (ITU) and adopted by the International Maritime Organization (IMO) that provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft; receives automatically such information from similarly fitted ships; monitors and tracks ships; and exchanges data with shore-based facilities.

As of December 31, 2004, AIS is required on most commercial vessels either navigating abroad or within a Vessel Traffic Service (VTS) area, such as VTS New York. (See 33 CFR 164.46.) As the vast majority of tug/barge combinations that transit Buzzards Bay are either traveling from or to New York and hence must participate in New York's VTS, they already carry AIS. The Coast Guard plans to propose expanding AIS requirements in the future. Regardless of whether a tug/barge combination is equipped with AIS, under this rule it must still participate in the Vessel Movement Reporting System (VMRS) by either AIS or VHF radiotelephone.

The National Oceanic and Atmospheric Administration (NOAA), at the request of the Coast Guard, has already overlaid recommended vessel routes on navigational charts for Rhode Island Sound, Narragansett Bay, and Buzzards Bay. These recommended vessel routes are currently included on all new editions of charts 13205, 13218, 13221, and 13230. To allow maximum operating flexibility to meet differing conditions and situations, at this time the Coast Guard is not making the recommended vessel routes depicted on these charts mandatory.

Currently, an escort tug is required in Buzzards Bay only for single hull tank barges, unless the single hull tank barge is being towed by a primary towing vessel with twin-screw propulsion and with a separate system for power to each screw. Consequently, the vast majority of tug and barge combinations transiting Buzzards Bay employ tugs with twin screws and twin engines, but with no additional positive control.

Discussion of Comments and Changes

On March 29, 2006, the Coast Guard published a Notice of Proposed Rule Making (NPRM) that proposed amending the current First Coast Guard District RNA to require that all single hull tank barges carrying 5,000 or more barrels of oil or other hazardous material and being towed through Buzzards Bay:

1. Participate in a Vessel Movement Reporting System (VMRS) (33 CFR part 161, subpart B) managed by the U.S. Army Corps of Engineers at its Cape Cod Canal control center on behalf of the Coast Guard.

2. Be accompanied by a federally licensed pilot, who could remain on the escort tug vessel, to monitor the navigation of the tug/barge, and to advise the master of the tug/barge accordingly.

3. Be accompanied by an escort tug between the west entrance to Buzzards Bay and the east end of the Cape Cod Canal.

Seventeen comments were received in response to the NPRM. All late comments received were reviewed and considered. Nine comments concerned the provision in the NPRM that would allow pilots, in times of adverse weather, to remain on the escort tug and to advise the master of the primary tug (i.e., the vessel actually towing the tank barge) from the escort tug. The comments noted that a pilot executing his/her pilotage duties from any vessel other than the primary tug would add little or no value, and may even increase danger due to confusion and communications difficulties.

The Coast Guard concurs with these comments. Accordingly, the provision to permit pilots to advise the master of a primary tug from an escort tug has been removed. Consequently, when this rule applies, pilots will be required to embark the primary tug during transits of Buzzards Bay.

Three comments urged that pilots be required to embark the primary tug only from a pilot boat, not an escort tug. Comments noted that pilot boats are better designed for such transfers of people between two underway vessels, and would be safer than permitting a transfer between a tug escort and primary tug. Many factors must be considered when deciding what constitutes a safe transfer between two underway vessels (e.g., an escort tug and primary tug, or a pilot boat and primary tug), including the design of each vessel, weather, physical abilities of the person transferring, etc. These decisions are better left to those actually on-scene and are not addressed in this rule.

Three comments asked that state-licensed pilots be required in addition to or in place of federally licensed pilots. One comment suggested that pilotage requirements similar to those for Prince William Sound, Alaska, be adopted for Buzzards Bay. In Prince William Sound, pilots are required to be state-licensed, but operate under their federal pilot's license. The Coast Guard notes that the pilotage requirement to

which the commenter refers was enacted by Congress as part of Oil Pollution Act of 1990, Pub. L. 101-380, and that both the Prince William Sound requirement and the request that the Coast Guard adopt a similar requirement in Buzzards Bay by this regulation is contrary to the generally applicable Congressional scheme for state-federal pilotage of vessels in Chapter 85 of Subtitle II of Title 46, U.S. Code.

The Coast Guard has looked carefully at whether, as a matter of federal regulatory exercise of authority, it can vary that generally applicable state-federal pilotage scheme and has concluded that it is without authority to do so. Unlike the Congressionally mandated Prince William Sound state-federal pilotage requirements, this regulation is being promulgated under the Ports and Waterways Safety Act, Public Law 92-340, section 5 (33 U.S.C. 1223(a)(4)). Authority under this Act is not so broad as to support a provision mandating the carriage of a state pilot where such a provision is contrary to the usual Congressional scheme prohibiting states from requiring a state licensed or commissioned pilot on a vessel subject to inspection under part B of subtitle II of Title 46, or is subject to inspection under chapter 37 of that Title.

An examination of the legislative history of that provision shows that nowhere did Congress mention imposing a State commissioned pilot in addition to or in lieu of a Federal pilot on vessels operating on the navigable waters of the United States. Given the long standing Congressional scheme for division of responsibility among Federal and State pilotage on vessels, which these comments would run counter to, and the absence of any legislative history that would suggest that Congress intended the words "operating condition" to include authority to promulgate a regulation that runs counter to that scheme, the Coast Guard is without authority to promulgate such a regulation. Accordingly, the Coast Guard does not adopt the suggestion in these comments.

One comment requested that the Coast Guard conduct a cost-benefit analysis to demonstrate that the benefits of this rule outweigh the cost.

As noted in the NPRM and contained in the docket for this rule (CGD01-04-133), a Regulatory Evaluation was conducted in March 2006. That evaluation found that this rule would prevent approximately 500 barrels of oil from being spilled into Buzzards Bay, would have a negligible impact on consumer energy costs, and would not

have a significant economic impact on a substantial number of small entities.

Some comments stated it was unclear if the pilotage requirement was for a federally licensed pilot in addition to the vessel's master, or if a master (or other crewmember) holding a Federal pilot's license could also serve as pilot while transiting Buzzards Bay.

The requirement in this rule is for a federally licensed pilot in addition to the vessel's master and crew. Under this rule, neither a master of a primary tug nor any member of its crew may serve as pilot while transiting Buzzards Bay. It is intended that the federally licensed pilot be an additional navigation resource to the master and crew of the vessel.

Some comments recommended this rule, particularly the escort tug requirement, apply to single hull tank ships in addition to barges.

The PAWSA report specifically addresses the hazards associated with single hull tank barges and was used as an indicator and resource for this rule. There is no indication in the PASWA that tank ships represent a similar risk of pollution. Consequently, this rule applies only to single hull tank barges, not tank ships.

Some comments asked for clarification on whether or not federally licensed pilots are required aboard escort tugs. They are not.

The requirement is for a federally licensed pilot to be aboard the primary tug towing a single hull tank barge.

Three written comments stated that the requirement for escort tugs should apply to double hull tanks vessels in addition to single hull tank vessels. At the consultative meeting discussed elsewhere in this preamble, the Massachusetts Department of Environmental Protection also urged that all tank vessels transiting Buzzards Bay, both single and double hull, be required to have an escort tug.

The majority of tank barge casualties in Buzzards Bay have been caused by groundings, and the bottom characteristics of the area are generally rocky. Double hulls provide sufficient protection against this type of casualty, and there has never been a major oil spill from a double hull tank barge grounding in Buzzards Bay. Therefore, the Coast Guard does not feel it is necessary to require tug escorts for double hull tank barges at this time. Additionally, the Coast Guard considers that, as adopted in this rule, its three-pronged approach to navigation safety ((1) Mandatory participation in a Vessel Movement Reporting System (VMRS); (2) a federally licensed pilot and (3) a tug escort for single hull tank barges)

constitutes a redundant vessel accident and pollution prevention system that will provide a sufficient measure of safety for tank vessels transiting Buzzards Bay.

Two comments suggested that use of the currently-existing (and voluntary) recommended vessel route in Buzzards Bay be mandated for commercial vessels.

The Coast Guard recognizes that, in light of variations in visibility, traffic density, tides and currents, and other on-scene conditions, and given the uniqueness of vessel and tow configurations and handling characteristics, prudent seamanship (and the Rules of the Road) may dictate departure from any given vessel route. The Coast Guard wishes to avoid creating any situation in which a mariner may feel constrained to follow a set route when conditions may warrant an alternative approach.

Importantly, the VMRS established by this rule will provide the Coast Guard the capability to monitor tank vessel movements in Buzzards Bay, including the capability to ascertain vessel intentions before entering the Bay. Most, if not all, tank vessels currently use the recommended vessel route voluntarily. Through the VMRS established by this rule, the Coast Guard will be able to monitor vessels as they transit the recommended vessel route to query and respond appropriately should a vessel deviate from the route without good and sufficient reason, including, but not limited to, proceeding to an anchorage, or briefly exiting the route to allow an approaching vessel to pass. Consequently, the Coast Guard considers the voluntary recommended vessel route, when combined with the enhanced ability to monitor the usage thereof, to provide an ample measure of safety.

While no comments addressed the proposed requirement that VMRS Buzzard's Bay users attain "approval" from the VMRS center (1) Prior to entering into, or getting underway within, the VMRS area; and (2) prior to meeting, crossing, or overtaking other VMRS users; in keeping with the monitoring—vice directive—function of a Vessel Movement Reporting System, the word "approval" was changed to better reflect the requirement that vessels "notify" the VMRS before undertaking the aforementioned actions.

Two comments suggested that escort tugs should have minimum horsepower or bollard pull requirements.

This rule amends the currently existing Regulated Navigation Area (RNA) for waters within the First Coast Guard District. As defined in the current

RNA, an escort tug is a vessel of "sufficient capability to promptly push or tow the tank barge away from danger of grounding or collision * * *" That definition is the product of several recommendations made by a Regional Risk Assessment Team (RRAT) chartered by the Coast Guard in 1996 to examine tug and barge operation and navigation procedures in the waters of the First Coast Guard District. The RRAT was composed of operators of towing vessels and tank barges, environmental groups, state agencies, and Coast Guard officials. In the Coast Guard Authorization Act of 1998 (Pub. L. 105–383), Congress directed the Coast Guard to adopt the recommendations of the RRAT. Consequently, the Coast Guard believes that definition is sufficient for this amendment to the existing RNA.

One comment requested that oil spill response vessels (OSRVs) and oil spill response barges (OSRBs) be exempt from these regulations. The commenter was concerned that, after one or more of these vessels had been called to respond to an oil spill in Buzzards Bay, its exit from the Bay (after recovering spilled oil) may be delayed due to the requirements of these regulations.

The Coast Guard considers these regulations to be important for all single hull tank barges carrying oil or petroleum products in sufficient quantity, including OSRVs and OSRBs, so as to enhance navigation safety and environmental protection in Buzzard's Bay. Further, we view the impacts of this regulation to be minimal on an OSRV or OSRB. Consequently, we did not provide the requested exemption.

One comment asked that the Commonwealth of Massachusetts be included in any partnership between the Coast Guard and the Army Corps of Engineers to operate a Vessel Movement Reporting System (VMRS) for Buzzards Bay.

The Coast Guard and Army Corps of Engineers are finalizing a Memorandum of Agreement that will delineate the functions and responsibilities of each agency in operating the VMRS. This MOA, once executed, will be added in the final docket for this rule. The Massachusetts Department of Environmental Protection has been and will remain a key partner in the planning and operation of the VMRS for Buzzards Bay.

In addition to the 17 comments received, two joint letters from U.S. Representatives Barney Frank, William D. Delahunt, and James P. McGovern were sent to the Commandant of the Coast Guard on July 26, 2006, and September 14, 2006, respectively. Both

letters urged the Coast Guard to adopt navigation safety provisions for Buzzards Bay similar to those provided for in a Massachusetts oil spill prevention law which had recently been overturned by a Federal court. Specifically, the Representatives requested that the Coast Guard:

1. Institute minimum watch and manning requirements for oil tankers and barges;
2. Mandate the use of State pilots to assist in navigating Buzzards Bay;
3. Mandate the use of tugboat escorts for all oil barges;
4. Institute mandatory navigational routes through state waters; and
5. Mandate a certificate of at least \$1 billion in financial backing to dock in Massachusetts, unless the shipping companies take special safety measures, such as using double hulls.

Although the Coast Guard did not adopt a state pilot requirement, the Coast Guard did adopt a requirement that the primary tug towing a single hull tank barge in Buzzards Bay have on board a federally licensed pilot, in addition to the vessel's master and normal crew complement. Thus, the provisions of this rule, along with other currently existing Federal statutes and regulations, will sufficiently address each of the Representatives' concerns for the following reasons:

1. Federal regulations at 46 CFR 15 comprehensively regulate manning and watchstanding on tank vessels and tugs. Additionally, 33 CFR 164.13(c) specifically requires tankers to have at least two licensed deck officers on watch on the bridge;
2. This rule requires that a federally licensed pilot be employed in addition to the normal crew for the transit of any single hull tank barge through Buzzards Bay;
3. This rule requires escort tugs, in addition to the primary tug, for all single hull tank barges transiting Buzzards Bay;
4. For the reasons discussed in this Notice, while use of the recommended vessel route in Buzzards Bay will not be mandatory, vessel movements within the route will be monitored through the Vessel Movement Reporting System established by this rule; and
5. Under Title VI of the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109–241), the financial liability limits for vessel oil discharge removal costs and damages under the Oil Pollution Act of 1990 (33 U.S.C. 2704) were amended, and the Financial Responsibility for Water Pollution regulations at 33 CFR part 138 will be amended accordingly via separate rulemaking. For further information on

this rulemaking, see docket USCG–2005–21780 at <http://dms.dot.gov/>, or contact Mr. Benjamin White at Coast Guard National Pollution Fund Center at 202–493–6863.

Regulatory Evaluation

Executive Order 12866, “Regulatory Planning and Review”, 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is “significant” and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. This rule is not significant under Executive Order 12866 and has not been reviewed by OMB.

During the period of analysis, 2006–2014, this rule is expected to cost approximately \$3.9 million net present value (7 percent discount rate). A copy of the regulatory evaluation, which further describes the expected costs and benefits of this rule, is posted in the docket and is available for inspection and copying at the offices of Commander, Coast Guard Sector Southeastern New England, East Providence office, 20 Risho Avenue, East Providence, RI 02914, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

No comments to the NPRM were received challenging the content of the regulatory evaluation, nor claiming a significant adverse economic impact should this rule be implemented as proposed. Nonetheless, to confirm the conclusions of the regulatory evaluation that this rule would not create a significant adverse impact on small entities, the Coast Guard reviewed selected economic data for the period of time between the evaluation’s original publication in March 2006 and the publication of this rule in July 2007. A comparison of the regulatory evaluation’s forecast of tug and barge activity with actual transits validated those projections. For example, the regulatory evaluation projected that there would be 234 transits of loaded tank barges through Buzzards Bay in 2006. The actual number was 208, only an 11% deviation from the projection. A review of more recent cost data associated with tug escort and pilot fees, when compared with revenue data of the small businesses most affected by this rule, also confirmed the fundamental finding of the regulatory evaluation, which is that the cost of compliance with this rule will not have a significant economic impact on a substantial number of small entities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of tugs and/or single hull barges carrying 5,000 or more barrels of oil or other hazardous materials and intending to transit or anchor in Buzzards Bay, Massachusetts.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule requires escort tugs and federally licensed pilots only for single hull barges, which are being phased out of operation in accordance with the Oil Pollution Act of 1990 (OPA), specifically 46 U.S.C. 3703a, and will be prohibited from operating effective January 1, 2015. Additionally, the VMRS established by this rulemaking applies only to vessels subject to the bridge-to-bridge radiotelephone regulations in § 26.03 (and therefore already equipped with VHF radios), so no additional costs will be incurred to participate in the VMRS. Those vessels with a Coast Guard-approved, properly installed, operational AIS would be relieved from the voice reporting requirements implemented by this rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Edward G. LeBlanc at Coast Guard Sector Southeastern New England, Providence, RI, 401–435–2351.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.). The reports required by this rule are considered to be operational communications, transitory in nature, and, do not constitute a collection of information under the Paperwork Reduction Act.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. The U.S. Supreme Court, in the cases of *United States v. Locke*, 529 U.S. 89 (2000) and *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978) has ruled that certain regulations issued pursuant to the Ports and Waterways Safety Act of 1972, as amended, are reserved exclusively to the Coast Guard, and that state regulation in these areas is preempted. In general, only the federal government may regulate the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of tank vessels. Similarly, where the Coast Guard enacts regulations—such as those implemented by this final rule—that control vessel traffic or are otherwise intended to protect navigation and the marine environment, or affirmatively determines that such regulation is unnecessary or inappropriate, a state may not enact rules that conflict with the Coast Guard’s determination in that area, including situations in which the State rules are identical to the federal rules.

The Coast Guard believes that by operation of law and our Agency determination, State law is preempted on the subjects covered by this rulemaking. The Coast Guard’s affirmative decisions: (1) Not to institute mandatory ship routes, but to monitor use of the existing recommend routes

via the Vessel Movement Reporting System created by this rule; (2) to require a federally licensed pilot in addition to the normal crew aboard a tug towing a single hull tank barge thorough Buzzard's Bay, but not to require any other modifications to the applicable manning requirements; and (3) to require an escort tug in addition to the primary tug, for all single hull tank barges transiting Buzzard's Bay, but not for other vessels; each represent a considered determination of the appropriate level of regulation to ensure navigation safety and environmental protection. As such, the Coast Guard has determined that any other non-Coast Guard schemes relating to vessel routing, manning, and tug escort requirements in Buzzards Bay are preempted.

To the extent not otherwise already preempted, this rule is intended to, and does, preempt those provisions of Massachusetts' "Act Relative to Oil Spill Prevention and Response in Buzzards Bay and Other Harbors and Bays of the Commonwealth," ("MOSPA") regarding enhanced manning requirements for tank barges and tow vessels in Buzzards Bay, see Mass. Gen. Laws ch. 21M § 4, and tugboat escorts for certain waters, see id. § 6. Further, it is the Coast Guard's view that, by Operation of Law, MOSPA's provisions regarding mandatory vessel routes in Massachusetts waters, see id. § 5; and compulsory State pilotage, see Mass. Gen. Laws ch. 103 § 21, are likewise preempted. See *U.S. v. Massachusetts*, 440 F.Supp.2d 24 (D.Mass., 2006), *remanded on other grounds*—F.3d—, 2007 WL 1775913 (1st Cir., June 21, 2007) (NO. 06–2361, 06–2362).

In accordance with E.O. 13132 for regulations with preemptive effect, the following federalism impact statement is provided to document (1) The extent of the Coast Guard's consultation with State and local officials, (2) a summary of the nature of their concerns and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

The Coast Guard provided elected officials of affected state and local governments notice and an opportunity to consult on this rulemaking. Ten Massachusetts municipalities surrounding Buzzards Bay indicated that they wished to participate, as did the Commonwealth of Massachusetts. Accordingly, the Coast Guard engaged the towns of Bourne, Dartmouth, Fairhaven, Gosnold, Marion, Mattapoisett, Wareham, Westport, Falmouth, the city of New Bedford, and

the Massachusetts Department of Environmental Protection ("DEP") to discuss their concerns. On September 13, 2006, after inviting all parties desiring consultative status to participate, the Coast Guard met with representatives from the city of New Bedford and the town of Westport. On October 11, 2006, the Coast Guard met with the Acting Commissioner of DEP. Representatives from the towns of Bourne, Fairhaven, Marion, and Mattapoisett, and representatives from DEP, spoke at public hearings held on this rulemaking. Ten municipalities (Bourne, Buzzards Bay, Dartmouth, Fairhaven, Gosnold, Marion, Mattapoisett, New Bedford, Wareham, and Westport) submitted statements regarding recommended oil spill prevention measures for Buzzard's Bay. We also received additional written comments to the docket from the towns of Bourne and Mattapoisett, the Massachusetts Attorney General, and DEP.

In general, all consulting state and local officials agreed upon the need for increased oil spill prevention measures in Buzzard's Bay and certain other Massachusetts' waters. The consulted parties' concerns related to the specific mechanisms to accomplish this goal. Essentially, the consulted parties encouraged the Coast Guard to enact regulations that would require (1) Implementation of a mandatory, Coast Guard-administered vessel movement system (2) mandatory use of the existing "recommended vessel route," (3) State-licensed (vice federally licensed) pilots aboard certain tank barges, and (4) escort tugs for both single and double hull tank barges.

As discussed in greater detail in Discussion of comments and changes, above, the Coast Guard is establishing a Vessel Movement Reporting System (VMRS) as urged.

Regarding mandatory ship routes in Buzzard's Bay, as previously indicated, the Coast Guard wishes to avoid creating any situation in which a mariner may feel constrained to follow a set route when operating or weather conditions may warrant an alternative approach. Thus, use of the already existing recommended vessel routes in Buzzards Bay will not be mandatory. Vessel movement along these recommended routes, however, will now be closely tracked through the VMRS established by this rule.

For reasons also set forth above, the Coast Guard is without the authority to require that a tug have a Federal pilot that is also licensed or commissioned by the State. The Coast Guard is, however, requiring a federally licensed pilot

aboard vessels towing certain single hulled tank barges through Buzzard's Bay as an additional navigation resource to the master and crew of the vessel.

With respect to the issue of requiring escort tugs for only single hull tank barges, as opposed to both single and double hulled barges, the Coast Guard believes that mandatory participation in a VMRS, the requirement to embark and employ a federally licensed pilot, and a tug escort requirement together provide a sufficient measure of safety for tank vessels transiting Buzzards Bay. Accordingly, the Coast Guard believes that the concerns for navigation safety and environmental protection underlying the specific recommendations of the consulted State and localities will be met by the regulations promulgated by this final rule.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with

applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) and (34)(i) of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g) and (34)(i), as it amends a currently existing Regulated Navigation Area and establishes a VMRS.

An “Environmental Analysis Check List” and “Categorical Exclusion Determination” are available in the

docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 161 and 165 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70117; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 161.12, add an entry for Buzzard’s Bay, in alphabetical order, and renumber footnotes 5 and 6 to read footnotes 6 and 7. Add a new footnote 5 to table 161.12(c) to read as follows:

§ 161.12 Vessel operating requirements.
* * * * *

TABLE 161.12(c).—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Center MMSI call sign	Designated frequency (channel designation)—purpose	Monitoring area
* * *	* * *	* * *
Buzzards Bay Buzzards Bay Control ⁵	156.600 MHz (Ch. 12)	The waters east and north of a line drawn from the southern tangent of Sakonnet Point, Rhode Island, in approximate position latitude 41°–27.2’ N, longitude 70°–11.7’ W, to the Buzzards Bay Entrance Light in approximate position latitude 41°–23.5’ N, longitude 71°–02.0’ W, and then to the southwestern tangent of Cuttyhunk Island, Massachusetts, at approximate position latitude 41°–24.6’ N, longitude 70°–57.0’ W, and including all of the Cape Cod Canal to its eastern entrance, except that the area of New Bedford harbor within the confines (north of) the hurricane barrier, and the passages through the Elizabeth Islands, is not considered to be “Buzzards Bay”.
* * *	* * *	* * *

Notes:

⁵ In addition to the vessels denoted in Section 161.16 of this chapter, requirements set forth in subpart B of this chapter also apply to any vessel transiting VMRS Buzzards Bay when equipped with a bridge-to-bridge radiotelephone as defined in part 26 of this chapter.

PART 165—WATERWAYS SAFETY; REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for part 165 is amended to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 4. In § 165.100—

■ a. Revise paragraphs (d)(1)(i) introductory text and (d)(1)(i)(G) to read as set out below; and

■ b. Add paragraph (d)(5) to read as follows:

**§ 165.100 Regulated Navigation Area:
Navigable waters within the First Coast
Guard District.**

* * * * *

(d) * * *

(1) * * *

(i) Except as provided in paragraph (d)(1)(iii) and paragraph 5 of this section, each single hull tank barge, unless being towed by a primary towing vessel with twin-screw propulsion and with a separate system for power to each screw, must be accompanied by an escort tug of sufficient capability to promptly push or tow the tank barge away from danger of grounding or collision in the event of—

* * * * *

(G) Any other time a vessel may be operating in a Hazardous Vessel Operating Condition as defined in § 161.2 of this Chapter.

* * * * *

(5) Special Buzzards Bay Regulations.

(i) For the purposes of this section, “Buzzards Bay” is the body of water east and north of a line drawn from the southern tangent of Sakonnet Point, Rhode Island, in approximate position latitude 41°–27.2’ North, longitude 70°–11.7’ West, to the Buzzards Bay Entrance Light in approximate position latitude 41°–23.5’ North, longitude 71°–02.0’ West, and then to the southwestern tangent of Cuttyhunk Island, Massachusetts, at approximate position latitude 41°–24.6’ North, longitude 70°–57.0’ West, and including all of the Cape Cod Canal to its eastern entrance, except that the area of New Bedford harbor within the confines (north) of the hurricane barrier, and the passages through the Elizabeth Islands, is not considered to be “Buzzards Bay”.

(ii) *Additional Positive Control for Barges.* Except as provided in paragraph (d)(1)(iii) of this section, each single hull tank barge transiting Buzzards Bay and carrying 5,000 or more barrels of oil or other hazardous material must, in addition to its primary tug, be accompanied by an escort tug of sufficient capability to promptly push or tow the tank barge away from danger of grounding or collision in the event of—

(A) A propulsion failure;

(B) A parted tow line;

(C) A loss of tow;

(D) A fire;

(E) Grounding;

(F) A loss of steering; or

(G) Any other time a vessel may be operating in a Hazardous Vessel Operating Condition as defined in § 161.2 of this subchapter.

(iii) *Federal Pilotage.* Each single hull tank barge transiting Buzzards Bay and carrying 5,000 or more barrels of oil or

other hazardous material must be under the direction and control of a pilot, who is not a member of the crew, operating under a valid, appropriately endorsed, Federal first class pilot’s license issued by the Coast Guard (“federally licensed pilot”). Pilots are required to embark, direct, and control from the primary tug during transits of Buzzards Bay.

(iv) *Vessel Movement Reporting System.* In addition to the vessels denoted in § 161.16 of this chapter, requirements set forth in subpart B of this part also apply to any vessel transiting VMRS Buzzards Bay when equipped with a bridge-to-bridge radiotelephone as defined in part 26 of this chapter.

(A) A VMRS Buzzards Bay user must:

(1) Not enter or get underway in the area without first notifying the VMRS Center;

(2) Not enter VMRS Buzzards Bay if a Hazardous Vessel Operating Condition or circumstance per § 161.2 of this Subchapter exists;

(3) If towing astern, do so with as short a hawser as safety and good seamanship permits;

(4) Not meet, cross, or overtake any other VMRS user in the area without first notifying the VMRS center;

(5) Before meeting, crossing, or overtaking any other VMRS user in the area, communicate on the designated vessel bridge-to-bridge radiotelephone frequency, intended navigation movements, and any other information necessary in order to make safe passing arrangements. This requirement does not relieve a vessel of any duty prescribed by the International Regulations for Prevention of Collisions at Sea, 1972 (33 U.S.C. 1602(c)) or the Inland Navigation Rules (33 U.S.C. 2005).

* * * * *

Dated: August 17, 2007.

T.S. Sullivan,

*Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.*

[FR Doc. E7–16844 Filed 8–29–07; 8:45 am]

BILLING CODE 4910–15–P

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[EPA–R01–OAR–2007–0373; A–1–FRL–8461–5]

**Approval and Promulgation of Air
Quality Implementation Plans;
Connecticut; Establishment of Interim
Progress for the Annual Fine Particle
National Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes early fine particulate (PM_{2.5}) transportation conformity emission budgets for the Connecticut portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM_{2.5} nonattainment area. This action is being taken under the Clean Air Act.

DATES: This direct final rule will be effective October 29, 2007, unless EPA receives adverse comments by October 1, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2007–0373 by one of the following methods:

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

2. *E-mail*: arnold.anne@epa.gov.

3. *Fax*: (617) 918–0047.

4. *Mail*: “Docket Identification Number EPA–R01–OAR–2007–0373”, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. 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 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2007–0373. 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 through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" systems, 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.

Docket: All documents in the electronic 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, 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 www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency, the Bureau of Air Management, Department of Environmental

Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT:

Donald O. Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail cooke.donald@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Comparison of Year 2002 Emissions to Year 2009
- III. Adequacy Process and SIP Approval
- IV. Transportation Conformity Motor Vehicle Emissions Budgets
- V. Basis for Approval
- VI. Final Action
- VII. Statutory and Executive Order Reviews

I. Background and Purpose

On December 17, 2004, (69 FR 943; January 5, 2005), EPA designated the New York-Northern New Jersey-Long Island, NY-NJ-CT area as nonattainment for the annual National Ambient Air Quality Standards (NAAQSs) for fine particle pollution or PM_{2.5}. [Airborne particles less than or equal to 2.5 micrometers in diameter are considered to be "fine particles," also referred to as PM_{2.5}.] One year after the April 5, 2005 effective date of the PM_{2.5} designations, transportation conformity applies to this multi-state PM_{2.5} nonattainment area. Within three years of final designation, (by April 5, 2008), consistent with section 172(b) of the Clean Air Act, and 40 CFR 51.1002 of the PM_{2.5} implementation regulations, the States of New Jersey, New York and Connecticut are required to submit an attainment demonstration and adopted regulations ensuring that the New York-Northern New Jersey-Long Island, NY-NJ-CT PM_{2.5} nonattainment area will attain the National Ambient Air Quality Standards as expeditiously as practicable. This PM_{2.5} attainment demonstration must include motor vehicle emissions budgets for direct PM_{2.5} (including re-entrained road dust and/or highway and transit construction dust if determined significant contributors), and any PM_{2.5} precursors determined to be significant (which may include nitrogen oxides (NO_x), volatile organic compounds (VOC), sulfur dioxide (SO₂) and ammonia (NH₃)). The SIP must clearly identify the budgets (motor vehicle emissions budgets) for transportation conformity purposes.

In the June 8, 2006 **Federal Register** (71 FR 33305), EPA announced that the

direct PM_{2.5} and NO_x motor vehicle emissions budgets identified in New Jersey's PM_{2.5} early progress state implementation plan (SIP) for the New Jersey portion of the NY-NJ-CT PM_{2.5} nonattainment area were adequate for transportation conformity purposes. As a result of EPA's adequacy finding, the two metropolitan planning organizations in northern New Jersey (the North Jersey Transportation Planning Authority (NJTPA) and the Delaware Valley Regional Planning Commission (DVRPC)) must use the new 2009 direct PM_{2.5} and NO_x budgets from the early progress PM_{2.5} SIP for future conformity determinations. In addition, with the establishment of adequate motor vehicle emissions budgets, New Jersey can independently determine conformity for the New Jersey portion of the NY-NJ-CT PM_{2.5} nonattainment area and is no longer tied to New York and Connecticut for transportation conformity determinations. On July 10, 2006, EPA approved the PM_{2.5} motor vehicle emissions budgets for Northern New Jersey into the New Jersey SIP (71 FR 38770).

On April 17, 2007, the Connecticut Department of Environmental Protection (DEP) submitted a revision to its SIP for establishing early fine particulate (PM_{2.5}) transportation conformity emission budgets for the Connecticut portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM_{2.5} nonattainment area. This SIP revision was developed in accordance with EPA's transportation conformity rule (69 FR 40028; July 1, 2004), which allows states with PM_{2.5} nonattainment areas to adopt early motor vehicle emission budgets that address the annual PM_{2.5} NAAQSs in advance of a complete SIP attainment demonstration. This SIP revision establishes early budgets to simplify the conformity process for Connecticut Metropolitan Planning Organizations (MPOs) while increasing the level of protection for Connecticut's citizens during this interim period before PM_{2.5} attainment plans are due in April 2008.

The PM_{2.5} motor vehicle emission budgets for calendar year 2009 included in Connecticut's April 17, 2007 SIP revision apply to MPOs in the Connecticut counties of Fairfield and New Haven. Before these budgets were determined adequate (see Section C below), these Connecticut MPOs were required to determine conformity jointly with the New York MPOs included in the NY-NJ-CT PM_{2.5} nonattainment area based on a calendar year 2002 interim baseline budget test. Consistent with a supplemental EPA rulemaking on

transportation conformity (70 FR 24280; May 6, 2005), Connecticut's April 17, 2007 SIP revision establishes early motor vehicle budgets for direct PM_{2.5} emissions and for emissions of nitrogen oxides (NO_x) [the only PM_{2.5} precursor found to be significant at this time for onroad mobile sources]. Since the budgets have been determined adequate, Connecticut MPOs must demonstrate that all transportation plans result in emissions of PM_{2.5} and NO_x that do not

exceed the annual 2009 motor vehicle emissions budget levels.

II. Comparison of Year 2002 Emissions to Year 2009

The total inventory of direct PM_{2.5} emissions for the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment Area is 6,663 tons in calendar year 2002, and is projected to be 6,495 tons in calendar year 2009. This represents an overall inventory reduction of 2.5% (168 tons of

direct PM_{2.5} emissions). Table 1, below, compares calculated year 2002 and year 2009 direct PM_{2.5} inventories by source type for the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment area. Although direct PM_{2.5} emissions from area and point sources are projected to increase by two and eight percent, respectively, emissions from nonroad and onroad sources are projected to decrease by 13 and 31 percent, respectively.

TABLE 1.—DIRECT ANNUAL PM_{2.5} EMISSIONS
[Tons]

	Area		Nonroad		Point		Onroad	
	2002	2009	2002	2009	2002	2009	2002	2009
Fairfield County	2,349	2,388	526	454	190	202	269	185
New Haven County	2,427	2,476	448	395	202	220	252	175
Total for CT Portion of NY-NJ-CT PM _{2.5} Nonattainment Area	4,776	4,864	974	849	392	422	521	360

The total inventory of NO_x emissions for the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment area is 61,199 tons in calendar year 2002, and projected to be 44,433 tons in calendar year 2009. This represents an overall

inventory reduction of 27% (16,766 tons of NO_x emissions). Table 2, below, compares calculated 2002 and 2009 annual NO_x inventories by source type for the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment area.

Although NO_x emissions from area and point sources are projected to increase by four and seven percent, respectively, emissions from nonroad and onroad sources are projected to decrease by 12 and 46 percent, respectively.

TABLE 2.—ANNUAL NO_x EMISSIONS
[Tons]

	Area		Nonroad		Point		Onroad	
	2002	2009	2002	2009	2002	2009	2002	2009
Fairfield County	3,134	3,269	7,150	6,104	3,892	4,183	17,411	9,314
New Haven County	2,937	3,061	7,935	7,108	2,305	2,429	16,435	8,965
Total for CT Portion of NY-NJ-CT PM _{2.5} Nonattainment Area	6,071	6,330	15,085	13,212	6,197	6,612	33,846	18,279

III. Adequacy Process and SIP Approval

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on EPA's third set of transportation conformity amendments in response to a case brought by the Environmental Defense Fund. The decision held that conformity determinations could no longer be based on submitted SIP emissions budgets, prior to a positive adequacy determination by EPA.

A May 14, 1999, EPA memorandum from Gay MacGregor to the Regional Division Directors provides guidance on how to review budgets for adequacy and the process for public comment and notification (posting on the Web). The May 14, 1999 guidance is available on EPA's conformity Web site at URL address: <http://www.epa.gov/otaq/>

[stateresources/transconf/policy/epaguidf.pdf](http://www.epa.gov/otaq/stateresources/transconf/policy/epaguidf.pdf). EPA provided additional guidance in its Final Rulemaking on July 1, 2004 (69 FR 40004–40081) “Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes; Final Rule.”

EPA initiated the adequacy process for Connecticut's motor vehicle emissions budgets on April 19, 2007, by announcing that Connecticut had submitted an early progress SIP for PM_{2.5} on EPA's Web site “SIP Submissions Currently Under EPA Adequacy Review” <http://www.epa.gov/otaq/stateresources/transconf/cursips.htm>. The criteria by which EPA

determines whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4)(i) through 93.118(e)(4)(vi) and 93.118(e)(5). On May 24, 2007, EPA notified the Connecticut Department of Environmental Protection (CT DEP) that no comments were received during the thirty day public comment period, and that EPA had determined the 2009 motor vehicle emissions budgets submitted on April 17, 2007, to be adequate for transportation conformity purposes. EPA New England published a Notice of Adequacy **Federal Register** on Tuesday, June 5, 2007 (72 FR 31069), announcing our May 24, 2007 adequacy determination and making the motor vehicle emissions budgets effective on June 20, 2007. A copy of EPA's May 24, 2007 adequacy determination to CT DEP

and the **Federal Register** Notice of Adequacy are both posted in the electronic docket as well as on EPA's Web site "SIP Submissions that EPA has Found Adequate or Inadequate," at URL address: <http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm>.

This positive adequacy determination simplifies the administrative process for demonstrating transportation conformity by establishing the 2009 direct PM_{2.5} and NO_x motor vehicle emissions budgets as conformity criteria for all 2009 and later evaluation years. Connecticut's early motor vehicle emissions budgets will insure progress is made towards achieving and maintaining the PM_{2.5} NAAQS by limiting the transportation sector to a more restrictive year 2009 level of on-road direct PM_{2.5} and NO_x than currently allowed by transportation conformity's interim emissions tests which are based on 2002 emissions in

the New York and Connecticut portions of the nonattainment area. Connecticut will also be able to evaluate conformity independently and will no longer be required to re-evaluate conformity whenever a MPO in the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM_{2.5} nonattainment area triggers conformity. EPA's adequacy determination for New Jersey's PM_{2.5} motor vehicle emissions budgets (71 FR 33305; June 8, 2006) already allows New Jersey to independently determine conformity.

Today's direct final rulemaking approves Connecticut's adequate 2009 direct PM_{2.5} and NO_x motor vehicle emissions budgets into the Connecticut SIP.

IV. Transportation Conformity Motor Vehicle Emissions Budgets

The early direct PM_{2.5} and NO_x annual motor vehicle emissions budgets

being established are the on-road portion of the 2009 projections illustrated in Table 3, below, 360 tons per year for direct PM_{2.5} and 18,279 tons per year for NO_x. The State of Connecticut Department of Transportation and Metropolitan Planning Organizations within the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment area [Council of Governments of the Central Naugatuck Valley (portion), Greater Bridgeport and Valley Regional Planning Organizations, Housatonic Valley Council of Elected Officials (portion), South Central Regional Council of Governments, and South Western Regional Planning Agency], shall use these budgets for future transportation conformity determinations.

TABLE 3.—2009 TRANSPORTATION CONFORMITY EMISSION BUDGETS

	Annual direct PM _{2.5} emissions (tons)	Annual NO _x emissions (tons)
Connecticut Portion of the NY-NJ-CT PM _{2.5} Nonattainment Area	360	18,279

V. Basis for Approval

EPA's review of Connecticut's SIP revision concludes that this SIP revision is consistent with EPA's Transportation Conformity Rule. Approval of Connecticut's SIP revision is directionally sound since it would approve year 2009 motor vehicle emissions budgets which are more stringent than the year 2002 baseline emissions now used to evaluate transportation conformity in the NY-NJ-CT PM_{2.5} nonattainment area. The projected overall annual inventory reduction in direct PM_{2.5} emissions from 2002 to 2009 is approximately 2.5 percent, along with a 27 percent reduction in NO_x emissions. This results from a projected 31 percent reduction in direct PM_{2.5} emissions and a 46 percent reduction in NO_x emissions from onroad sources.

Connecticut's projected reduction in direct PM_{2.5} and NO_x emissions demonstrates progress towards attainment of the PM_{2.5} annual standard. Although, the projected reduction in direct PM_{2.5} emissions is below the five to ten percent reduction that was provided as an example in the July 2004 conformity rule preamble (69 FR 40019; July 1, 2004), EPA believes that Connecticut's early progress SIP should be approved since it will strengthen the

existing SIP. Listed below are several factors that make Connecticut's SIP package directionally sound.

1. Fairfield County and New Haven County were included in the New York-Northern New Jersey-Long Island, NY-NJ-CT PM_{2.5} nonattainment area because of traffic and commuting patterns and other weighting factors used in EPA's designation process. Connecticut has never monitored values at or above the annual NAAQSs for PM_{2.5}.¹

2. There were no monitored violations of EPA's annual PM_{2.5} standard in Fairfield and New Haven counties in 2002, and any reduction in the overall inventory for the two county area below 2002 levels should help ensure that this level of air quality is maintained or improved in the future.

3. There is a significant projected tonnage decrease in overall PM_{2.5} emissions (168 tons) and NO_x emissions (16,766 tons) by 2009 in comparison to 2002 base year levels.

4. There is a very large percent reduction projected in both PM_{2.5} direct and NO_x on-road emissions (31% and 46%, respectively) and traffic and

commuting patterns were one of the areas highlighted in the technical support documentation for EPA's PM_{2.5} designation decisions.

5. The large reduction in Connecticut's NO_x emissions (27% overall reduction from all inventory sources) may be more beneficial to transport issues by reducing precursors, than immediate reduction of direct PM_{2.5} emissions in Connecticut.

VI. Final Action

EPA is approving the Connecticut SIP revision for establishment of interim progress for the annual fine particle National Ambient Air Quality Standard, which was submitted on April 17, 2007. The direct PM_{2.5} and annual NO_x motor vehicle emissions budgets being approved are the on-road mobile source 2009 projections of 360 tons per year of direct PM_{2.5} and 18,279 tons per year of NO_x. These motor vehicle emissions budgets must be used to demonstrate that all transportation plans in the Connecticut portion of the NY-NJ-CT PM_{2.5} nonattainment area result in emissions of PM_{2.5} and NO_x that do not exceed the annual 2009 motor vehicle emissions budget levels.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

¹ This SIP is addressing requirements for the annual PM_{2.5} standard. Nonattainment of the revised 24-hour PM_{2.5} standard (35 micrograms per cubic meter of air (µg/m³)) has not yet been determined.

comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective October 29, 2007 without further notice unless the EPA receives adverse comments by October 1, 2007.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 29, 2007 and no further action will be taken on the proposed rule.

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 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.*). 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), because it 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. 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 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 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. section 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2007. Interested parties should comment in response to the proposed rule rather

than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 20, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of chapter I, 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 H—Connecticut

■ 2. Section 52.379 is added to read as follows:

§ 52.379 Control strategy: PM_{2.5}.

Approval—Revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection (DEP) on April 17, 2007. The revision is for the purpose of establishing early fine particulate (PM_{2.5}) transportation conformity emission budgets for the Connecticut portion of the New York–Northern New Jersey–Long Island, NY–NJ–CT PM_{2.5} nonattainment area. The April 17, 2007 revision establishes PM_{2.5} motor vehicle emission budgets for 2009 of 360 tons per year of direct PM_{2.5} emissions and 18,279 tons per year of NO_x emissions to be used in transportation conformity in the Connecticut portion of the New York–Northern New Jersey–Long Island, NY–NJ–CT PM_{2.5} nonattainment area.

[FR Doc. E7–17004 Filed 8–29–07; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 05–265; FCC No. 07–143]

Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC) clarifies by final rule that automatic roaming is a common carrier obligation for commercial mobile radio service (CMRS) carriers, requiring them to provide roaming services to other carriers upon reasonable request and on a just, reasonable, and non-discriminatory basis.

DATES: This rule is effective October 29, 2007.

FOR FURTHER INFORMATION CONTACT:

Christina Clearwater at (202) 418–1893, *Christina.Clearwater@fcc.gov*, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau; Won Kim at (202) 418–1368, *Won.Kim@fcc.gov*, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, WT Docket No. 05–265, FCC No. 07–143, adopted August 7, 2007 and released August 16, 2007. The full text of the Report and Order is available for public inspection 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 (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.

Final Paperwork Reduction Act of 1995 Analysis

The Report and Order does not contain an information collection subject to the Paperwork Reduction Act of 1995, and therefore does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002.

Synopsis

1. In this Report and Order, the Commission finds that automatic roaming is a common carrier obligation pursuant to Sections 201 and 202 of the Communications Act, and discusses the scope of the automatic roaming obligation for commercial mobile radio service (CMRS) carriers. The Commission also declines to regulate the automatic roaming rates and addresses other issues raised by commenters in the record, including a request for “most favored” roaming partner rates for Tier IV CMRS carriers, in-market or home roaming issues, access to non-interconnected features and enhanced digital networks, and public filing of roaming rates. Finally, the Commission codifies the automatic roaming obligations into a rule, imposing an affirmative obligation to provide automatic roaming on CMRS carriers under certain conditions, denies the petition for investigation pursuant to Section 403 of the Act, and declines to sunset the existing manual roaming rule at this time.

2. The Commission believes its findings and clarifications in this Report and Order with respect to CMRS providers' obligations regarding roaming services serve the public interest and safeguard wireless consumers' reasonable expectations of receiving seamless nationwide commercial mobile telephony services through roaming.

A. Automatic Roaming Obligations

1. Automatic Roaming

3. The Commission clarifies that automatic roaming is a common carrier service, subject to the protections outlined in Sections 201 and 202 of the Communications Act. If a CMRS carrier receives a reasonable request for automatic roaming, pursuant to Section 332(c)(1)(B) and Section 201(a), it is desirable and serves the public interest for that CMRS carrier to provide automatic roaming service on reasonable and non-discriminatory terms and conditions. Services that are covered by the automatic roaming obligation are limited to real-time, two-way switched voice or data services, provided by CMRS carriers, that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These findings are consistent with the Commission's previous determinations.

4. Roaming is a common carrier service, because roaming capability gives end users access to a foreign

network in order to communicate messages of their own choosing, as previously determined in CC Docket No. 94–54, published at 61 FR 44026, August 27, 1996.¹ In finding that roaming is a common carrier service, the Commission noted the contrast between roaming and services such as billing and collection offered by local exchange carriers (LECs) and interexchange carriers (IXCs), which are not common carriage because they do “not allow customers of the service * * * to communicate or transmit intelligence of their own design and choosing,” and because they can be offered by non-communications entities such as credit card companies. The Commission also found that roaming satisfies all the statutory elements of commercial mobile radio service, and “is thus a common carrier service, because it is (1) an interconnected mobile service (2) offered for profit (3) in such a manner as to be available to a substantial portion of the public.” There are two forms of roaming—manual and automatic. The Commission finds that both forms of roaming are common carrier services because both forms of roaming capability give end users access to a foreign network in order to communicate messages of their own choosing.

5. Further, under Section 332 of the Communications Act, CMRS providers are subject to common carrier regulations. Section 332(c)(1)(A) provides that a “person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is engaged, be treated as a common carrier,” and Subsection (c)(1)(B) states that, “[u]pon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of Section 201 of this Title.” Like any other common carrier service offering, if a CMRS provider offers automatic roaming, it triggers its common carrier obligations with respect to the provisioning of that service under the Communications Act. The Commission determines that, if a CMRS carrier receives a reasonable request for automatic roaming, pursuant to Section 332(c)(1)(B) and Section 201(a), it is desirable and necessary to serve the

¹ See Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94–54, Second Report and Order and Third Notice of Proposed Rulemaking, 11 FCC Rcd 9462, 9468–69 Para. 10 (1996) (“Interconnection and Resale Obligations Second Report and Order” and “Interconnection and Resale Obligations Third NPRM,” respectively).

public interest for that CMRS carrier to provide automatic roaming service on reasonable and non-discriminatory terms and conditions.

6. Additionally, the Commission determines that a reasonable request for automatic roaming will be limited to real-time, two-way switched voice or data services, provided by CMRS carriers, that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. This ensures that all CMRS providers competing in the mass market for real-time, two-way voice and data services are similarly obligated to provide automatic roaming services, thereby equally benefiting all subscribers of mobile telephony services who seek to roam seamlessly over CMRS networks. The Commission also concludes, as it has in prior proceedings, that an important indicator of a provider's ability to compete with other CMRS providers is whether the provider's system has "in-network" switching capability. In-network switching facilities accommodate the reuse of frequencies in different portions of the same service area, thus enabling any CMRS provider to offer interconnected service to a larger group of customers and compete directly with other CMRS providers in the mass consumer market.

7. *Complaint Procedures.* Based on its finding that automatic roaming is a common carrier service, the Commission determines that the provisioning of automatic roaming service is subject to Section 208 which provides that complaints may be filed with the Commission against common carriers subject to the Communications Act. There has been some confusion regarding whether the provisioning of automatic roaming services is subject to the requirements of Section 208. Given the fact-specific nature of the roaming issues that have come to light during this proceeding and several merger proceedings, the Commission concludes that many disputes involving automatic roaming services would be best resolved through an adjudicatory process. In deciding roaming complaints, the Commission will consider whether a request is reasonable or whether the activity complained of is unjust and unreasonable based on the totality of the circumstances of the case. When roaming-related complaints are filed, the Commission intends to address them expeditiously on a case-by-case basis.

8. Further, the Commission notes that the Accelerated Docket procedure,

including pre-complaint mediation, is available to roaming complaints. Several commenters—including parties both supporting and opposing adoption of an automatic roaming rule—requested use of the Commission's Accelerated Docket procedures to resolve roaming complaints. Although all roaming complaints will not automatically be placed on the Accelerated Docket, an affected carrier can seek consideration of its complaint under the Commission's Accelerated Docket rules and procedures where appropriate.

9. *Reasonableness of Automatic Roaming Requests.* In order to provide some guidance as to the reasonableness of automatic roaming requests under Sections 201(b) and 202(a), the Commission also establishes several rebuttable presumptions with respect to requests for automatic roaming and the would-be host carriers' response. The Commission will presume a request for automatic roaming to be reasonable, in the first instance, if the requesting CMRS carriers' network is technologically compatible and the roaming request is for areas outside of the requesting carrier's home market. As noted above, to be deemed reasonable, a request for automatic roaming may involve only those real-time, two-way switched voice or data services that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. When a presumptively reasonable automatic roaming request is made, a would-be host CMRS carrier has a duty to respond to the request and avoid actions that unduly delay or stonewall the course of negotiations regarding that request. For example, following receipt of a reasonable automatic roaming request, evidence of a would-be host carrier's refusal to respond at all or a persistent pattern of stonewalling behavior will likely support a finding of a breach of the would-be host carrier's automatic roaming obligations.

10. The presumptions and examples of reasonableness cited above are not exhaustive, but rather are intended to provide some guidance to parties that may be participating in a Section 208 complaint proceeding involving roaming services. CMRS carriers may argue that the Commission should consider other relevant factors in determining whether there is a violation of the automatic roaming obligations, based on the totality of the circumstances present in a particular case.

2. Determination Not to Impose Rate Regulation on Roaming Agreements

11. The Commission declines to impose a price cap or any other form of rate regulation on the fees carriers pay each other when one carrier's customer roams on another carrier's network. In particular, the Commission is not persuaded that consumers would be harmed in the absence of a price cap or some other form of rate regulation. The Commission believes that the better course, as established in this Report and Order, is that the rates individual carriers pay for automatic roaming services be determined in the marketplace through negotiations between the carriers, subject to the statutory requirement that any rates charged be reasonable and non-discriminatory.

12. The Commission finds that there is insufficient evidence to justify regulating the roaming rates of carriers, and that any harm to consumers in the absence of affirmative regulation in this regard is speculative. Moreover, with the clarifications it makes herein with respect to automatic roaming, the Commission finds that consumers are protected from being harmed by the level and structure of roaming rates negotiated between carriers. Absent a finding that the existing level and structure of roaming rates harm consumers, regulation of rates for automatic roaming service is not warranted.

13. Because it is not persuaded that the existing level and structure of roaming rates negotiated between carriers harm consumers of mobile telephony services, the Commission does not need to address the argument that the state of competition in the intermediate product market is such as to warrant rate regulation.

14. Based on the foregoing considerations, the Commission concludes that regulation of roaming rates is not warranted on economic grounds. In addition, however, the Commission agrees with concerns raised in the record that rate regulation has the potential to distort carriers' incentives and behavior with regard to pricing and investment in network buildout. Capping roaming rates by tying them to a benchmark based on larger carriers' retail rates may diminish larger carriers' incentives to lower retail prices paid by their customers, and perhaps even give them an incentive to raise retail rates. At the same time, by requiring larger carriers to offer national roaming coverage to their competitors' customers at nearly the same rates offered to their own customers, this form of rate

regulation may also give smaller regional carriers an incentive to reduce, or even eliminate, the discounts they offer on regional calling plans, thereby driving up the prices regional subscribers pay for calls within their plan's calling area.

15. Similarly, regulation to reduce roaming rates has the potential to deter investment in network deployment by impairing buildout incentives facing both small and large carriers. By enabling smaller regional carriers to offer their customers national roaming coverage at more favorable rates without having to build a nationwide network, rate regulation would tend to diminish smaller carriers' incentives to expand the geographic coverage of their networks. In addition, by reducing or eliminating any competitive advantage gained as a result of building out nationwide or large regional networks, rate regulation would impair larger carriers' incentives to expand, maintain, and upgrade their existing networks.

B. Other Issues

1. "Most Favored" Roaming Partner Rates for Tier IV CMRS Providers

16. Since the Commission's determination that automatic roaming is common carrier service applies to all CMRS providers regardless of size, it declines to create a special Tier IV category for roaming services. The Commission also declines to adopt a rule requiring that large nationwide carriers offer the same roaming arrangements to Tier IV providers as they offer to their "most favored" roaming partners.

17. Because the need for automatic roaming services may not always be the same, and the value of roaming services may vary across different geographic markets due to differences in population and other factors affecting the supply and demand for roaming services, it is likely that automatic roaming rates will reasonably vary. Mobile services in the United States are differentiated based on price, as well as non-price attributes, including geographic coverage. Competition between mobile telephone pricing plans that are differentiated in these ways benefits consumers by allowing them to choose pricing plans that offer the best deal on the types of services they use most frequently. Mandating that a subcategory of CMRS carriers (*i.e.*, Tier IV providers) are entitled to the same rates as "most favored" roaming partners and imposing this obligation on certain large CMRS carriers, without a clear demonstration of why such a requirement would serve the public interest, would distort

competitive market conditions, resulting in unjust and unreasonable practices and discriminatory treatments.

18. Accordingly, the Commission declines to mandate that a subcategory of CMRS carriers (*i.e.*, Tier IV providers) be entitled to the same rates as "most favored" roaming partners. The Commission similarly declines to impose such an obligation on only certain larger CMRS carriers. Instead, the Commission believes that its finding that automatic roaming rule is a common carrier service subject to provisions of Sections 201, 202 and 208 of the Communications Act and guidance as to rebuttable presumptions establishing the reasonableness of an automatic roaming request provide small CMRS carriers with an effective mechanism for recourse against unjust and unreasonable practices.

2. In-Market or Home Roaming

19. The Commission determines that the automatic roaming obligation does not include an in-market or home roaming requirement. The Commission is not requiring a CMRS carrier to provide automatic roaming to a requesting CMRS carrier in a market where the CMRS carrier directly competes with the requesting CMRS carrier. Specifically, a CMRS carrier is not required to provide automatic roaming to a requesting CMRS carrier where the requesting CMRS carrier holds a wireless license or spectrum usage rights (*e.g.*, spectrum leases) in the same geographic location as the would-be host CMRS carrier. In geographic areas outside of these overlapping areas or markets, however, a host carrier must comply with the Commission's automatic roaming requirement and provide this service in a manner consistent with the common carrier obligations of Sections 201 and 202 of the Communications Act.

20. The Commission finds that an automatic roaming request in the home area of a requesting CMRS carrier, the area where the requesting CMRS carrier has the spectrum to compete directly with the would-be host carrier, does not serve the Commission's public interest goals of encouraging facilities-based service and supporting consumer expectations of seamless coverage when traveling outside the home area. The Commission finds that if a carrier is allowed to "piggy-back" on the network coverage of a competing carrier in the same market, then both carriers lose the incentive to build out into high cost areas in order to achieve superior network coverage. This conclusion, however, should not be construed as prohibiting a requesting carrier from

seeking to negotiate a roaming agreement including such terms if desired, or a host carrier from providing a requesting CMRS carrier with in-market or home roaming should it chose to do so. The Commission continues to encourage all CMRS carriers to negotiate desired terms and conditions of automatic roaming agreements, including automatic roaming in overlapping geographic markets.

21. For purposes of this exclusion from automatic roaming obligations, in-market or home roaming is defined as any geographic location where the would-be host carrier and the requesting CMRS carrier have wireless licenses or spectrum usage rights that could be used to provide CMRS that cover or overlap the same geographic location(s). Within these overlapping geographic areas, the would-be host carrier is not required to comply with an automatic roaming request. This in-market or home roaming exclusion does not depend on the level of service the requesting CMRS carrier is providing in the overlapping geographic area. The exclusion applies regardless of whether the requesting CMRS carrier is providing no service, limited service, or state-of-the-art service.

22. Finally, the Commission also determines that the automatic roaming obligation under Sections 201 and 202 and the home roaming exclusion are not intended to resurrect CMRS resale obligations. CMRS resale entails a reseller's purchase of CMRS service provided by a facilities-based CMRS carrier in order to provide resold service within the same geographic market as the facilities-based CMRS provider. The Commission notes that its mandatory resale rule was sunset in 2002, and automatic roaming obligations can not be used as a backdoor way to create de facto mandatory resale obligations or virtual reseller networks.

3. Access to Certain Data Features and Enhanced Digital Networks

(a) Access to Push-to-Talk, Text Messaging (SMS) and Non-Interconnected Data Features

23. As discussed above, the scope of automatic roaming services includes only services offered by CMRS carriers that are real-time, two-way switched voice or data services that are interconnected with the public switched network and utilize an in-network switching facility that enables providers to reuse frequencies and accomplish seamless hand-offs of subscriber calls. The Commission finds that it would serve the public interest to extend automatic roaming obligations to push-

to-talk and SMS. The Commission declines at this time, however, to adopt a rule extending the automatic roaming obligation beyond that to offerings that do not fall within the scope of the automatic roaming services' definition, such as non-interconnected services or features.

24. With respect to push-to-talk and SMS, the Commission notes that such offerings are typically bundled as a feature on the handset with other CMRS services, such as real-time, two-way switched mobile voice or data, that are interconnected with the public switched network. Provision of these features differs from one carrier to another, *i.e.*, push-to-talk and SMS are interconnected features or services in some instances, but non-interconnected in others, depending on the technology and network configuration chosen by the carriers. The Commission is also aware that consumers consider push-to-talk and SMS as features that are typically offered as adjuncts to basic voice services, and expect the same seamless connectivity with respect to these features and capabilities as they travel outside their home network service areas. For these reasons, the Commission finds that it is in the public interest to impose an automatic roaming obligation on push-to-talk and SMS offerings, subject to several provisos. Namely, the requesting carrier must offer push-to-talk and SMS to its subscribers on its own home network; push-to-talk and SMS roaming must be technically feasible; and any changes to the would-be host carrier's network that are necessary to accommodate push-to-talk and SMS roaming requests must be economically reasonable.

25. With respect to non-interconnected features or services, the Commission finds that the record in this proceeding lacks a clear showing that it is in the public interest at this time to impose an automatic roaming obligation. While proponents of unrestricted data roaming have argued that requiring roaming access to the non-interconnected features of a competitor's network would benefit consumers by providing greater availability for data features that are increasingly used by consumers, opponents are concerned that that it might undercut incentives to differentiate products and could chill innovation. These opponents claim that extending roaming to non-interconnected features of a competitors' network may also adversely affect business decisions to build out facilities for facilities-based competition and reduce the incentives to access the spectrum through other

means such as initial spectrum licensing or secondary markets. In light of these diverse views, the Commission believes it is in the public interest, however, to examine the issue of automatic roaming for non-interconnected features or services through a Further Notice of Proposed Rulemaking (FNPRM).

(b) Access to Enhanced Digital Networks

26. As previously explained, the automatic roaming obligation applies to real-time, two-way switched voice or data services that are interconnected with the public switched network and utilize an in-network switching facility that enables providers to reuse frequencies and accomplish seamless hand-offs of subscriber calls. As discussed above with respect to non-interconnected services, the Commission similarly declines at this time to extend the scope of the automatic roaming services definition to include non-interconnected services provided over enhanced digital networks, such as wireless broadband Internet access. The Commission finds that automatic roaming, as a common carrier obligation, does not extend to services that are classified as information services or to other wireless services that are not CMRS.

27. While the Commission finds that, based on the current record, it is premature to impose any roaming obligation regarding enhanced data services that are not CMRS and not interconnected to the public switched network, the Commission will examine this matter further in the FNPRM.

4. Public Filing of Roaming Rates

28. The Commission declines to impose an affirmative obligation on CMRS carriers to post their roaming rates. As is generally the case with commercial agreements, roaming agreements are confidential and filing them would impose administrative costs on the carriers. In light of its adoption of an automatic roaming rule as discussed below, the Commission finds that the available remedies for redress are sufficient to address disputes that may arise.

C. Codification of Automatic Roaming Obligations

29. The Commission codifies the automatic roaming obligations of CMRS carriers into a rule requiring that they provide automatic roaming to any requesting technologically compatible CMRS carrier outside of the requesting CMRS carrier's home market on reasonable and nondiscriminatory terms and conditions. This rule applies to CMRS carriers that offer real-time, two-

way switched voice or data service over digital network that is interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. The Commission also notes that codification of an automatic roaming obligation gives CMRS carriers another avenue to redress roaming disputes, benefiting mobile telephony subscribers.

30. Finally, the Commission clarifies that automatic roaming, pursuant to Sections 201 and 202, as a common carrier obligation applies to CMRS carriers' analog networks. The Commission does not find, however, that it is necessary to codify this obligation into a specific rule. With the sunset of the analog service requirement on February 18, 2008, there would be little benefit to a codified automatic roaming rule for analog networks that might potentially apply between now and that date. Individual carriers may, of course, enter into automatic roaming agreements for their analog networks, and any allegations that particular practices on analog networks are unjust, unreasonable or otherwise in violation of Sections 201 and 202 of the Communications Act would be subject to the complaint process of Section 208 of the Communications Act.

D. Petition for Investigation Pursuant to Section 403 of the Act

31. Because the Commission finds that the record is sufficient to codify automatic roaming obligations of CMRS carriers, the Commission denies the Joint Petition for Investigation Pursuant to Section 403, which petitioners contend will assist the Commission in gathering necessary information to support the adoption of an automatic roaming rule.

E. Manual Roaming

32. The Commission declines to sunset its existing manual roaming rule and, instead, retains it as a safety net for consumers. The Commission is aware that as automatic roaming becomes increasingly ubiquitous, it will render the need for manual roaming obsolete. The Commission notes, however, that the record demonstrates that automatic roaming is not available in certain instances today and, therefore, the continuing utility of the manual roaming rule in the immediate future is not completely obviated. For this reason, the Commission retains the manual roaming rule as a safety net to ensure that subscribers can initiate a wireless call when they are outside of their service area through manual

roaming if there is no automatic roaming agreement in place.

Final Regulatory Flexibility Analysis

33. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),² an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM in WT Docket No. 05–265, published at 70 FR 56612, September 28, 2005.³ The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.⁴

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

34. In the Report and Order, with regard to commercial services, the Commission takes an affirmative step to facilitate the provision of wireless services to consumers, especially those in rural areas, and to clarify its rules related to roaming. The Commission clarifies that automatic roaming is a common carrier obligation for CMRS carriers, requiring them to provide roaming services to other carriers upon reasonable request and on a just, reasonable, and non-discriminatory basis pursuant to Sections 201 and 202 of the Communications Act. The Commission reiterates its earlier determination that roaming is a common carrier service because roaming capability gives end users access to a foreign network in order to communicate messages of their own choosing. Thus, the provision of roaming is subject to the requirements of Section 201, 202, and 208 of the Communications Act.⁵

35. The Commission also finds that the common carrier obligation to provide roaming extends to services that are real-time, two-way switched voice or data service that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. The Commission notes that roaming, as a common carrier obligation, does not extend to services that are classified as information services or to services that are not CMRS.⁶

36. The Commission recognizes that today CMRS consumers increasingly rely on mobile telephony services and they reasonably expect to continue their wireless communications even when they are out of their home network area. Thus, the findings in this Report and Order with respect to CMRS providers' obligations regarding roaming services serve the public interest and safeguard wireless consumers' reasonable expectations of seamless continuous nationwide commercial mobile telephony services through roaming. The Commission also declines to sunset the existing manual roaming requirement at this time to provide additional flexibility for consumers.

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

37. There were no comments filed specifically in response to the IRFA.

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

38. 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 proposed rules, if adopted.⁷ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁸ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁹ A

Section 332(c)(1) of the Act provides that a person engaged in the provision of a service that is a commercial mobile service shall be treated as a common carrier for purposes of the Act. See 47 U.S.C. 332(c)(1).

⁶ Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, Declaratory Ruling, FCC No. 07–30, paras. 11–12 (rel. Mar. 23, 2007) ("Wireless Broadband Internet Access Declaratory Ruling").

⁷ 5 U.S.C. 604(a)(3).

⁸ 5 U.S.C. 601(6).

⁹ 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small

"small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹⁰

39. In the following paragraphs, the Commission further describes and estimates the number of small entity licensees that may be affected by the rules the Commission adopts in this Report and Order. The Commission's finding that automatic roaming is a common carrier service subject to protections outlined in Sections 201, 202 and 208 of the Act affects all CMRS carriers that provide real-time, two-way switched voice or data service that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Such carriers are obligated to provide automatic roaming. As a common carrier obligation, the automatic roaming rule does not extend to non-interconnected services/features or services that are classified as information services or to services that are not CMRS.

40. Since this Report and Order applies to multiple services, this FRFA analyzes the number of small entities affected on a service-by-service basis. When identifying small entities that could be affected by the Commission's new rules, this FRFA provides information that describes auctions results, including the number of small entities that were winning bidders. However, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily reflect the total number of small entities currently in a particular service. The Commission does not generally require that licensees later provide business size information, except in the context of an assignment or a transfer of control application that involves unjust enrichment issues.

41. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging"¹¹ and "Cellular and Other Wireless

Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

¹⁰ 15 U.S.C. 632.

¹¹ 13 CFR 121.201, NAICS code 517211.

² See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

³ See In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, Memorandum Opinion & Order and Notice of Proposed Rulemaking, WT Docket No. 05–265, 20 FCC Rcd 15047, 15068 App. (2005) ("MO&O" and "NPRM," respectively).

⁴ See 5 U.S.C. 604.

⁵ See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 05–265, Memorandum Opinion & Order and Notice of Proposed Rulemaking, 20 FCC Rcd 15047, 15048 para. 2 (2005) ("Reexamination NPRM"); Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94–54, Second Report and Order and Third Notice of Proposed Rulemaking, 11 FCC Rcd 9462, 9463–71 paras. 1–14 (1996) ("Interconnection and Resale Obligations Second Report and Order" and "Interconnection and Resale Obligations Third NPRM," respectively). See also 47 CFR 20.15.

Telecommunications.”¹² Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.¹³ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.¹⁴ Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.¹⁵ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.¹⁶ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

42. *Cellular Licensees.* The SBA has developed a small business size standard for small businesses in the category “Cellular and Other Wireless Telecommunications.”¹⁷ Under that SBA category, a business is small if it has 1,500 or fewer employees.¹⁸ For the census category of “Cellular and Other Wireless Telecommunications,” Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.¹⁹ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²⁰ Thus, under this category and

size standard, the majority of firms can be considered small.

43. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.²¹ For Block F, an additional small business size standard for “very small business” was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.²² These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA.²³ No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the C Block auctions. A total of 93 “small” and “very small” business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.²⁴ On March 23, 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.²⁵ On January 26, 2001, the Commission completed the auction of 422 C and F PCS licenses in Auction 35.²⁶ Of the 35 winning bidders in this auction, 29 qualified as “small” or “very small” businesses. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

44. *Narrowband Personal Communications Service.* The Commission held an auction for Narrowband Personal Communications Service (PCS) licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, “small businesses” were entities with average gross revenues for the prior three calendar years of \$40 million or less.²⁷ Through these auctions, the Commission awarded a total of forty-one licenses, 11 of which were obtained by four small businesses.²⁸ To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order.²⁹ A “small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million.³⁰ A “very small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million.³¹ The SBA has approved these small business size standards.³² A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (MTA and nationwide) licenses.³³ Three of these claimed status as a small or very small entity and won 311 licenses.

45. *Specialized Mobile Radio.* The Commission awards “small entity” bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz

¹² 13 CFR 121.201, NAICS code 517212.

¹³ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517211 (issued Nov. 2005).

¹⁴ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

¹⁵ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517212 (issued Nov. 2005).

¹⁶ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

¹⁷ 13 CFR 121.201, North American Industry Classification System (NAICS) code 517212.

¹⁸ *Id.*

¹⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517212 (issued Nov. 2005).

²⁰ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

²¹ See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, 11 FCC Rcd 7824, 7850–7852 paras. 57–60 (1996); see also 47 CFR 24.720(b).

²² See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, 11 FCC Rcd 7824, 7852 para. 60.

²³ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

²⁴ FCC News, “Broadband PCS, D, E and F Block Auction Closes,” No. 71744 (rel. January 14, 1997).

²⁵ See “C, D, E, and F Block Broadband PCS Auction Closes,” public notice, 14 FCC Rcd 6688 (WTB 1999).

²⁶ See “C and F Block Broadband PCS Auction Closes; Winning Bidders Announced,” public notice, 16 FCC Rcd 2339 (2001).

²⁷ Implementation of Section 309(j) of the Communications Act—Competitive Bidding Narrowband PCS, Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 175, 196 para. 46 (1994).

²⁸ See “Announcing the High Bidders in the Auction of ten Nationwide Narrowband PCS Licenses, Winning Bids Total \$617,006,674,” public notice, PNWL 94–004 (rel. Aug. 2, 1994); “Announcing the High Bidders in the Auction of 30 Regional Narrowband PCS Licenses; Winning Bids Total \$490,901,787,” public notice, PNWL 94–27 (rel. Nov. 9, 1994).

²⁹ Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS, Second Report and Order and Second Further Notice of Proposed Rule Making, 15 FCC Rcd 10456, 10476 para. 40 (2000).

³⁰ *Id.*

³¹ *Id.*

³² See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

³³ See “Narrowband PCS Auction Closes,” public notice, 16 FCC Rcd 18663 (WTB 2001).

and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years.³⁴ The Commission awards "very small entity" bidding credits to firms that had revenues of no more than \$3 million in each of the three previous calendar years.³⁵ The SBA has approved these small business size standards for the 900 MHz Service.³⁶ The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the \$15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the \$15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band.³⁷ A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.³⁸

46. The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed "small business" status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

47. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended

implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$3 million or \$15 million (the special small business size standards), or have no more than 1,500 employees (the generic SBA standard for wireless entities, discussed, *supra*). One firm has over \$15 million in revenues. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities.

48. *Advanced Wireless Services.* In the AWS-1 Report and Order, the Commission adopted rules that affect applicants who wish to provide service in the 1710-1755 MHz and 2110-2155 MHz bands.³⁹ The AWS-1 Report and Order defines a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a "very small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. The AWS-1 Report and Order also provides small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent.

49. *Rural Radiotelephone Service.* The Commission uses the SBA small business size standard applicable to cellular and other wireless telecommunication companies, i.e., an entity employing no more than 1,500 persons.⁴⁰ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

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

gross revenues of \$15 million for each of the three preceding years.⁴¹ The SBA has approved these definitions.⁴² The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

51. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz Band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons.⁴³ For the census category of "Cellular and Other Wireless Telecommunications," Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.⁴⁴ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.⁴⁵ Thus, under this category and size standard, the majority of firms can be considered small.

52. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. In the 220 MHz Third Report and Order, the

⁴¹ Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (WCS), Report and Order, 12 FCC Rcd 10785, 10879 para. 194 (1997).

⁴² See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

⁴³ 13 CFR 121.201, NAICS code 517212.

⁴⁴ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517212 (issued Nov. 2005).

⁴⁵ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

³⁴ 47 CFR 90.814(b)(1).

³⁵ *Id.*

³⁶ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999.

³⁷ See "Correction to Public Notice DA 96-586 'FCC Announces Winning Bidders in the Auction of 1020 Licenses to Provide 900 MHz SMR in Major Trading Areas,'" public notice, 18 FCC Rcd 18367 (WTB 1996).

³⁸ See "Multi-Radio Service Auction Closes," public notice, 17 FCC Rcd 1446 (WTB 2002).

³⁹ Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, Report and Order, 18 FCC Rcd 25162 (2003) (AWS-1 Report and Order).

⁴⁰ 13 CFR 121.201, NAICS code 517212.

Commission adopted a small business size standard for defining "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁴⁶ This small business standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years.⁴⁷ A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years.⁴⁸ The SBA has approved these small size standards.⁴⁹ Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.⁵⁰ In the first auction, 908 licenses were auctioned in three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.⁵¹ Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.⁵² A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses.⁵³

53. *700 MHz Guard Band Licenses.* In the 700 MHz Guard Band Order, the Commission adopted size standards for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment

payments.⁵⁴ A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.⁵⁵ Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.⁵⁶ SBA approval of these definitions is not required.⁵⁷ An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000.⁵⁸ Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.⁵⁹

54. *Upper 700 MHz Band Licenses.* The Commission released a Report and Order authorizing service in the Upper 700 MHz band.⁶⁰ An auction for these

⁵⁴ Service Rules for the 746–764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, Second Report and Order, 15 FCC Rcd 5299 (2000). Service rules were amended in 2007, but no changes were made to small business size categories. See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands, WT Docket No. 06–150, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01–309, Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03–264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06–169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06–229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96–86, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064 (2007).

⁵⁵ *Id.* at 5343 para. 108.

⁵⁶ *Id.*

⁵⁷ *Id.* At 5343 para. 108 n.246 (for the 746–764 MHz and 776–794 MHz bands, the Commission is exempt from 15 U.S.C. 632, which requires Federal agencies to obtain Small Business Administration approval before adopting small business size standards).

⁵⁸ See "700 MHz Guard Bands Auction Closes: Winning Bidders Announced," public notice, 15 FCC Rcd 18026 (2000).

⁵⁹ See "700 MHz Guard Bands Auctions Closes: Winning Bidders Announced," public notice, 16 FCC Rcd 4590 (WTB 2001).

⁶⁰ Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, Second Memorandum

licenses, previously scheduled for January 13, 2003, was postponed.⁶¹

55. *Lower 700 MHz Band Licenses.* The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits.⁶² The Commission has defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.⁶³ A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.⁶⁴ Additionally, the Lower 700 MHz Band has a third category of small business status that may be claimed for Metropolitan/Rural Service Area (MSA/RSA) licenses. The third category is entrepreneur, which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.⁶⁵ The SBA has approved these small size standards.⁶⁶ An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on

Opinion and Order, 16 FCC Rcd 1239 (2001). Service rules were amended in 2007, but no changes were made to small business size categories. See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands, WT Docket No. 06–150, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01–309, Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03–264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06–169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06–229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96–86, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064 (2007).

⁶¹ See "Auction of Licenses for 747–762 and 777–792 MHz Bands (Auction No. 31) Is Rescheduled," public notice, 16 FCC Rcd 13079 (WTB 2003).

⁶² See Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59), Report and Order, 17 FCC Rcd 1022 (2002).

⁶³ *Id.* at 1087–88 para. 172.

⁶⁴ *Id.*

⁶⁵ *Id.* at 1088 para. 173.

⁶⁶ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999.

⁴⁶ Amendment of Part 90 of the Commission's Rules to Provide For the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, Third Report and Order, 12 FCC Rcd 10943, 11068–70 paras. 291–295 (1997).

⁴⁷ *Id.* at 11068 para. 291.

⁴⁸ *Id.*

⁴⁹ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated January 6, 1998.

⁵⁰ See generally "220 MHz Service Auction Closes," public notice, 14 FCC Rcd 605 (WTB 1998).

⁵¹ See "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," public notice, 14 FCC Rcd 1085 (WTB 1999).

⁵² See "Phase II 220 MHz Service Spectrum Auction Closes," public notice, 14 FCC Rcd 11218 (WTB 1999).

⁵³ See "Multi-Radio Service Auction Closes," public notice, 17 FCC Rcd 1446 (WTB 2002).

September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses.⁶⁷ A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 CMA licenses.⁶⁸ Seventeen winning bidders claimed small or very small business status and won sixty licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.⁶⁹

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

56. The only reporting or recordkeeping costs to be incurred are administrative costs to ensure that an entity's practices are in compliance with the rule. The only compliance requirement is that CMRS carriers must provide automatic roaming to any requesting technologically compatible CMRS carrier outside of the requesting CMRS carrier's home market on reasonable and non-discriminatory terms and conditions. This rule applies to CMRS carriers that offer real-time, two-way switched voice or data service over digital network that is interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.⁷⁰

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

57. 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.⁷¹

⁶⁷ See "Lower 700 MHz Band Auction Closes," public notice, 17 FCC Rcd 17272 (WTB 2002).

⁶⁸ See "Lower 700 MHz Band Auction Closes," public notice, 18 FCC Rcd 11873 (WTB 2003).

⁶⁹ *Id.*

⁷⁰ See Report and Order, *supra*, paras. 28–29.

⁷¹ See 5 U.S.C. 603(c).

58. In this Report and Order, the Commission clarifies that automatic roaming is a common carrier obligation for CMRS carriers, requiring them to provide roaming services to other carriers upon reasonable request and on a just, reasonable, and non-discriminatory basis pursuant to Sections 201 and 202 of the Communications Act. In adopting this rule, the Commission determined that when a reasonable request is made by a technologically compatible CMRS carrier, a host CMRS carrier must provide automatic roaming to the requesting carrier outside of the requesting carrier's home market, consistent with the protections of Sections 201 and 202 of the Communications Act.

59. In the Report and Order, the Commission finds that the scope of automatic roaming services includes only services offered by CMRS carriers that are real-time, two-way switched voice or data services that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. In addition, the Commission determines that it would serve the public interest to extend automatic roaming obligation to push-to-talk and text messaging (SMS). However, the Commission declines to adopt a rule extending the automatic roaming obligation beyond that to offerings that do not fall within the scope of the automatic roaming services' definition, such as non-interconnected services or features or services that are classified as information services or to services that are not CMRS.⁷²

60. In response to the Reexamination NPRM, some of the commenters requested that the Commission cap the rates that a carrier may charge other carriers for automatic roaming service based on some benchmark of retail rates.⁷³ Some of these commenters have also submitted economic analyses in

⁷² Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, Declaratory Ruling, FCC No. 07–30, paras. 11–12 (rel. Mar. 23, 2007) ("Wireless Broadband Internet Access Declaratory Ruling").

⁷³ See Leap Comments at 17, 19–20 (recommending that, in geographic areas where there are three or fewer facilities-based carriers from which the carrier seeking automatic roaming service could obtain such service, the Commission prohibit a facilities-based carrier from charging rates for automatic roaming that exceed the carrier's average retail revenue per minute for that area). See also SouthernLINC Comments at 49 (proposing that the Commission establish a presumption that a carrier's roaming rates in a region are unreasonable if they exceed the lowest prevailing per-minute retail rates that it charges its own subscribers in that region).

support of their proposals.⁷⁴ Other commenters oppose any rate regulation and, in turn, have submitted their own economic analyses disputing the theory and evidence used to justify the imposition of rate regulation.⁷⁵ In the Report and Order, the Commission declines to impose a price cap or any other form of rate regulation on the fees carriers pay each other when one carrier's customer roams on another carrier's network. The Commission believes that the rates individual carriers pay for automatic roaming services should be determined in the marketplace through negotiations between the carriers, subject to the statutory requirement that any rates charged be reasonable and non-discriminatory.

61. The Commission reiterates that the general policy regarding CMRS services is to allow competitive market forces, rather than regulations, to promote the development of wireless services. On balance, taking into consideration the concerns raised in the record by certain CMRS carriers⁷⁶ and its preference for allowing competitive market forces to govern rate and rate structures for wireless services, the Commission expressly declines to impose any corresponding rate regulation of automatic roaming services.

62. In the Reexamination NPRM, the Commission sought comment on whether a carrier should be required to enter into an automatic roaming arrangement on a nondiscriminatory basis with a facilities-based-competitor in the same market. In the Report and Order, the Commission determines that the automatic roaming obligation does not include an in-market or home roaming requirement. The Commission finds that an automatic roaming request in the home area of a requesting CMRS carrier, the area where the requesting

⁷⁴ See, e.g., Leap Comments, Attachment A (ERS Group, Wholesale Pricing Methods of Nationwide Carriers Providing Commercial Mobile Radio Services: An Economic Analysis); SouthernLINC Comments, Attachment B (R. Preston McAfee, The Economics of Wholesale Roaming in CMRS Markets); SouthernLINC Reply Comments, Attachment B (R. Preston McAfee, The Economics of Wholesale Roaming in CMRS Markets: Reply Comments); Leap Reply Comments, Attachment A (David S. Sibley, The Existence of Regional, Technology-Specific Wholesale Antitrust Markets for Roaming Services); Leap Reply Comments, Attachment B (ERS Group, A Further Analysis of the Wholesale Pricing Methods of Nationwide Carriers Providing Commercial Mobile Radio Service).

⁷⁵ See, e.g., Rosston/Sprint Nextel Comments; Rosston/Sprint Nextel Reply Comments; Hazlett/Cingular Reply Comments; Furchtgott-Roth/T-Mobile Reply Comments.

⁷⁶ See, e.g., Cingular Comments at i, 18–30; NDN Comments at 3; Nextel Partners Comments at 5–6.

CMRS carrier has the spectrum to compete directly with the would-be host carrier, does not serve public interest goals of encouraging facilities-based service and supporting consumer expectations of seamless coverage when traveling outside the home area.

63. In the Reexamination NPRM, the Commission sought comment on access to push-to-talk, dispatch, or other data roaming. Some carriers advocate that the Commission should adopt an automatic roaming rule that requires carriers to permit roaming access to all technical features of their systems, and/or require carriers to make the same features accessible to all of their roaming partners (e.g., push-to-talk, dispatch, text messaging (SMS) or other data roaming services). Based on the record, in the Report and Order, the Commission finds that it would serve public interest to extend automatic roaming obligations to push-to-talk and SMS. However, the Commission declines to adopt a rule extending the automatic roaming obligation beyond that to offerings that do not fall within the scope of the automatic roaming services' definition, such as non-interconnected services or features. With respect to push-to-talk and SMS, the Commission finds that such offerings are typically bundled as a feature on the handset with other CMRS services, such as real-time, two-way switched mobile voice or data, which are interconnected with the public switched network. Thus, consumers consider push-to-talk and SMS as features that are typically offered as adjuncts to basic voice services, and expect the same seamless connectivity with respect to these features and capabilities as they travel outside their home network service areas.

64. With respect to non-interconnected data service, the Commission finds that it is not in the public interest at this time to impose an automatic roaming obligation. In the absence of a clear showing in the record that it would serve the public interest, the Commission believes that open access to the non-interconnected features of a competitor's network might undercut incentives to differentiate products and could chill innovation. It may also adversely affect business decisions to build out facilities for facilities-based competition and reduce the incentives to access the spectrum through other means such as initial spectrum licensing or secondary markets. For these reasons, the Commission declines to impose an automatic roaming requirement on non-interconnected features, such as stand alone dispatch, at this time.

65. In the Report and Order, the Commission also declines to impose an affirmative obligation on CMRS carriers to post their roaming rates. The Commission notes that roaming agreements are generally confidential and filing them would impose administrative costs on the carriers. In light of the adoption of an automatic roaming rule, the Commission finds that the available remedies for redress are sufficient to address disputes that may arise. Therefore, the Commission finds it unnecessary to burden CMRS carriers by requiring them to file roaming agreements.

F. Report to Congress

66. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.⁷⁷ 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**.⁷⁸

Ordering Clauses

67. Accordingly, *it is ordered that*, pursuant to the authority contained in Sections 1, 4(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B), and Section 1.425 of the Commission's rules, 47 CFR 1.425, this Report and Order and *FNPRM is hereby adopted*.

68. *It is further ordered that* Sections 20.3 and 20.12 of the Commission's rules *are amended* as specified in Appendix A, and such rule amendments shall be effective 60 days after the date of publication of the text thereof in the **Federal Register**.

69. *It is further ordered that* the Joint Petition for Commission Inquiry Pursuant to Section 403 of the Communications Act filed by AIRPEAK Communications, LLC, Airtel Wireless LLC, Cleveland Unlimited, Inc., Leap Wireless International, Inc., MetroPCS Communications, Inc., Punxsutawney Communications, Rural Telecommunications Group, Inc., and Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, on April 25, 2006 *is hereby denied*.

70. *It is further ordered that* the Commission's Consumer and

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

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

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

Authority: 47 U.S.C. 154, 160, 251–254, 303 and 332 unless otherwise noted.

■ 2. Section 20.3 is amended by adding the following terms alphabetically to read as follows:

§ 20.3 Definitions.

* * * * *

Automatic Roaming. With automatic roaming, under a pre-existing contractual agreement between a subscriber's home carrier and a host carrier, a roaming subscriber is able to originate or terminate a call in the host carrier's service area without taking any special actions.

* * * * *

Home Carrier. For automatic roaming, a home carrier is the facilities-based CMRS carrier with which a subscriber has a direct contractual relationship. A home carrier may request automatic roaming service from a host carrier on behalf of its subscribers.

Home Market. For automatic roaming, a CMRS carrier's home market is defined as any geographic location where the home carrier has a wireless license or spectrum usage rights that could be used to provide CMRS.

Host Carrier. For automatic roaming, the host carrier is a facilities-based CMRS carrier on whose system a subscriber roams when outside its home carrier's home market.

* * * * *

Manual Roaming. With manual roaming, a subscriber must establish a relationship with the host carrier on whose system he or she wants to roam in order to make a call. Typically, the

⁷⁷ See 5 U.S.C. 801(a)(1)(A).

⁷⁸ See 5 U.S.C. 604(b).

roaming subscriber accomplishes this in the course of attempting to originate a call by giving a valid credit card number to the carrier providing the roaming service.

* * * * *

■ 3. Section 20.12 is amended by revising paragraphs (a) and (c) and adding paragraph (d) as follows:

§ 20.12 Resale and roaming.

(a)(1) *Scope of Manual Roaming and Resale.* Paragraph (c) of this section is applicable to providers of Broadband Personal Communications Services (part 24, subpart E of this chapter), Cellular Radio Telephone Service (part 22, subpart H of this chapter), and specialized Mobile Radio Services in the 800 MHz and 900 MHz bands (included in part 90, subpart S of this chapter) if such providers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the provider to re-use frequencies and accomplish seamless hand-offs of subscriber calls. The scope of paragraph (b) of this section, concerning the resale rule, is further limited so as to exclude from the requirements of that paragraph those Broadband Personal Communications Services C, D, E, and F block licensees that do not own and control and are not owned and controlled by firms also holding cellular A or B block licenses.

(2) *Scope of Automatic Roaming.* Paragraph (d) of this section is applicable to CMRS carriers if such carriers offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilizes an in-network switching facility that enables the carrier to re-use frequencies and accomplish seamless hand-offs of subscriber calls. Paragraph (d) of this section is also applicable to the provision of push-to-talk and text-messaging service by CMRS carriers.

* * * * *

(c) *Manual Roaming.* Each carrier subject to paragraph (a)(1) of this section must provide mobile radio service upon request to all subscribers in good standing to the services of any carrier subject to paragraph (a)(1) of this section, including roamers, while such subscribers are located within any portion of the licensee's licensed service area where facilities have been constructed and service to subscribers has commenced, if such subscribers are using mobile equipment that is technically compatible with the licensee's base stations.

(d) *Automatic Roaming.* Upon a reasonable request, it shall be the duty of each host carrier subject to paragraph (a)(2) of this section to provide automatic roaming to any technologically compatible home carrier, outside of the requesting home carrier's home market, on reasonable and nondiscriminatory terms and conditions.

[FR Doc. E7-17122 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07-3425; MB Docket No. 06-97; RM-11254]

Radio Broadcasting Services; Dundee and Odessa, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal.

SUMMARY: The staff dismisses a counterproposal filed by Bible Broadcasting Network, Inc. to allot Channel 238A to Savona, New York, as a first local aural service. The Media Bureau also modifies its Consolidated Data Base System to reflect Channel 238A at Odessa, New York, as the reserved assignment for Station WFLR-FM in lieu of Channel 238A at Dundee, New York in response to a proposal filed by Finger Lakes Radio Group, Inc., and modifies Station WFLR-FM's license and construction permit accordingly. The reference coordinates for Channel 238A at Odessa, NY, are 42-20-38 NL and 76-53-03 WL. With this action, the proceeding is terminated. See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 06-97, adopted July 25, 2007, and released July 27, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445

12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

Finger Lakes Radio Group, Inc.'s proposal was formerly a rule change to Section 73.202(b), the FM Table of Allotments. See 71 FR 30856 (May 31, 2006). As a result of changes to the Commission's processing rules, modifications of FM channels for existing stations are no longer listed in Section 73.202(b) and are instead reflected in the Media Bureau's Consolidated Data Base System (CDBS). See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (December 20, 2006). Nevertheless, a summary of the Report and Order in the instant proceeding is being published in the **Federal Register** because the counterproposal involved a proposed amendment to Section 73.202(b). Although the Report and Order set forth an effective date of September 10, 2007, Station WFLR-FM's license and construction permit will be modified effective 30 days after publication of this summary in the **Federal Register** in compliance with Sections 1.427 and 1.429 of the Commission's rules.

This document is not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the counterproposal was dismissed.)

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7-17021 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95-184; MM Docket No. 92-260; FCC 07-111]

Telecommunications Services Inside Wiring Customer Premises Equipment, Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission eliminates barriers to competitive entry in multiple dwelling units (MDUs) and in multiunit premises, when a new entrant seeks to compete against an incumbent provider. The Commission concluded that cutting and repairing sheet rock adds significantly to the physical difficulty and cost of wiring an MDU. In this document, the Commission again concludes that cable wiring located behind sheet rock qualifies as physically inaccessible under the Commission's rules for purposes of determining the demarcation point between home wiring and home run wiring. This ruling will facilitate competition in video distribution markets by clarifying the circumstances under which the existing cable home run wiring in MDUs can be made available to alternative video service providers.

DATES: Effective August 30, 2007.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Karen Kosar, Karen.Kosar@fcc.gov of the Media Bureau, Policy Division, (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of that portion of the Commission's *Report and Order and Declaratory Ruling*, FCC 07-111, adopted on May 31, 2007, and released on June 8, 2007, which addresses the Commission's adoption in 2003 of the note to 47 CFR 76.5(mm) (4) and the subsequent remand by the U.S. Court of Appeals. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

I. Summary of the Final Rule

1. In this *Order*, the Commission eliminates barriers to competitive entry

in multiple dwelling units (MDUs) and in multiunit premises, when a new entrant seeks to compete against an incumbent provider. An MDU is a building or buildings with two or more residences, such as an apartment building, condominium building, or cooperative. See 47 CFR 76.800. This *Order* responds to a decision issued by the United States Court of Appeals for the District of Columbia Circuit regarding amendment of the Commission's cable television inside wiring rules. In the 2003 order reviewed by the court, the Commission had modified its rules to provide that "home run wiring" located behind sheet rock is considered physically inaccessible for purposes of determining the demarcation point between home wiring and home run wiring. Cable home run wiring in a MDU is the wiring that runs from the demarcation point to the point at which the multichannel video programming distributor's (MVPD) wiring becomes devoted to an individual subscriber or individual loop. See 47 CFR 76.800(d). In contrast, "cable home wiring" is the internal wiring contained within the premises of a subscriber, which begins at the demarcation point and runs to the subscriber's television set or other customer premises equipment. See 47 CFR 76.5(l). The Commission concluded in 2003 that cutting and repairing sheet rock adds significantly to the physical difficulty and cost of wiring an MDU. In this *Order*, the Commission concludes that cable wiring located behind sheet rock qualifies as physically inaccessible under the Commission's rules for purposes of determining the demarcation point between home wiring and home run wiring. The record shows that accessing such wiring causes significant damage or modification to a preexisting structural element and generally adds significantly to the physical difficulty and/or cost of accessing the subscriber's home wiring. This ruling will facilitate competition in video distribution markets by clarifying the circumstances under which the existing cable home run wiring in MDUs can be made available to alternative video service providers.

2. The *Order* takes important steps to ensure that the pro-competitive, deregulatory goals of the 1996 Act are realized. The Commission actions here remove both economic and operational barriers to infrastructure investment in the communications market. New entrants to the video services market should not be foreclosed from competing for consumers in MDUs

based on regulatory technicalities or costly and inefficient industry practices. By removing these obstacles, the Commission furthers the opportunities for consumers living in MDUs to enjoy the social and economic benefits of communication services competition.

3. In 1993, the Commission first promulgated rules for cable home wiring and for the disposition of that wiring after termination of service. In 1996, the Commission addressed certain cable home wiring issues and sought comment regarding how the Commission should revise these rules to reflect new developments, and how to promote competition by ensuring that the Commission's rules would facilitate the use of new and diverse services. In 1997, the Commission sought further comment on and addressed issues regarding procedures for the disposition of home run wiring in MDUs when an MDU owner decides to terminate service for the entire building and when an MDU owner is willing to permit two or more video service providers to compete for subscribers in the MDU on a unit-by-unit basis. In 2003, the Commission resolved the issues presented on reconsideration in that proceeding. See 18 FCC Rcd at 1342 (2003).

4. Central to any discussion on cable home wiring or cable home run wiring is the matter of the MDU demarcation point, which is the point at which a consumer's home wiring becomes the network's home run wiring. The Commission had previously stated that the cable wiring demarcation point serves such multiple purposes as defining (1) the location at which the subscriber may control the internal home wiring if he or she owns it; (2) the point at which an alternative multichannel video programming distributor (MVPD) would attach its wiring to the subscriber's wiring in order to provide service; and (3) the point from which the customer has the right to purchase cable home wiring upon termination of service. For purposes of this proceeding, a critical component of our discussion involves the location of the demarcation point because it is where a competing provider may access existing cable home wiring in an MDU building. The demarcation point for MDUs is set at (or about) twelve inches outside of where the cable wire enters the subscriber's individual dwelling unit. The demarcation point for single unit installations is the same. See 47 CFR 76.5(mm)(1). The presumptive demarcation point was adopted in the *Cable Wiring Order*, 8 FCC Rcd 1435 (1993). In the event that the cable

demarcation point is “physically inaccessible” to an alternative MVPD, the demarcation point moves away from the individual dwelling unit to a point at which it first becomes physically accessible. The Commission has concluded that, for the cable demarcation point to be “physically inaccessible,” access to the wiring must (1) require significant modification or damage to preexisting structural elements, and (2) add significantly to the physical difficulty and/or cost of accessing the subscriber’s home wiring.

5. The Appeals Court decision remanded that portion of the 2003 order that amended the Note to § 76.5(mm)(4) of the Commission’s rules to indicate that wiring embedded in sheet rock would be considered physically inaccessible. Previously, the Commission provided examples of wiring that would be considered “physically inaccessible,” including wiring embedded in brick, metal conduit, and cinder blocks with limited or no access openings. Wiring simply enclosed within hallway molding would not be considered inaccessible. The Court found that the Commission offered no reasoned basis for expanding the Note to include sheet rock and remanded the case to the Commission for further consideration. In response, the Commission sought comment on its conclusions in the 2003 order with regard to § 76.5(mm)(4) of the rules and the amendment of the applicable Note.

6. The Court asserted that the Commission did not adequately support its conclusion that wiring behind sheet rock is “physically inaccessible” for purposes of the inside wiring rules. The Court found that the Commission had not explained why or how accessing wiring behind sheet rock requires “significant modification of, or significant damage to” the sheet rock. The Court also found that the Commission failed to explain the relative nature of the “damage” or “modification” related to accessing wiring behind sheet rock, and therefore that the Commission’s conclusion regarding physical inaccessibility lacked adequate evidentiary support.

7. The Court also criticized the Commission’s assessment of whether accessing cable wire behind sheet rock would “add significantly to the physical difficulty and/or cost” of accessing the subscriber’s home wiring. The Court stated that while the Commission acknowledged that cutting through sheet rock is easier than boring through brick, metal, or cinder block, it did not support the conclusion that the lesser physical difficulty and cost are “significant.”

8. In response, the Commission sought additional comment with respect to whether cable wiring behind sheet rock should be considered physically inaccessible. The Commission set forth its premise that what preexisting structural elements should be included for purposes of determining the demarcation point and what is considered to be an accessible or inaccessible location should be based on practicality. In the 2003 order, the Commission incorporated its response to a *Request for Letter Ruling from RCN-BeCoCom, L.L.C.* asking the Commission to address the issue of whether cable wiring behind sheet rock is “physically inaccessible,” such that the demarcation point should be located not at the twelve inch mark, but rather at the operator’s junction box. Based on the *RCN Request for Letter Ruling* and responses to that request, the Commission incorporated sheet rock as one of the examples of materials to be considered as a “preexisting structural element” in its definition of physical inaccessibility.

9. In this *Order*, the Commission finds that sheet rock is a preexisting structural element and that accessing inside wiring behind sheet rock would cause significant modification and damage to that structural element. Sheet rock is a preexisting structural element and not merely a surface finish or decorative finish like molding. Sheet rock is not added after a building is completed. Sheet rock is a fundamental component of the construction of the building. Thus, sheet rock is more like “brick or cinder block” because it is commonly used to form ceilings and walls in MDUs and other structures. We believe that ceilings and walls are an integral and permanent part of the building structure of MDUs, and therefore, sheet rock used to form ceilings and walls qualifies as a preexisting structural element for purposes of the Commission’s rules.

10. The Commission concludes that the record supports the conclusion that accessing inside wiring behind sheet rock causes significant modification and damage to structural elements, i.e., walls and ceilings, albeit modification and damage that may be repairable. MDU resident owners and their managers are not only concerned with the condition of individually-owned units or apartments, but also with the condition of the common elements in these structures. For example, the record reveals that MDU resident owners and their managers will sometimes require an entire wall or ceiling to be repainted or re-wallpapered even where the hole cut in

the sheet rock is significantly smaller than the wall or ceiling in order to restore the area to its original appearance. Requiring such extensive repair is a strong indication that there has been significant modification or damage to the pre-existing structural area. Unlike with single family residences, MDU residents share common walls and ceilings and have an interest in the condition and treatment of those common elements. With regard to the issues of fire safety and possible degradation of a building’s resistance to moisture, we take a conservative approach and give credence to the commenters who argue that cutting into sheet rock may pose a safety risk or affect a building’s resistance to moisture and thus may lead to significant modification or damage to such structural elements. Consequently, the Commission concludes that penetration of sheet rock for purposes of accessing inside wiring constitutes significant modification and damage to structural elements under the Commission’s rules.

11. The Commission also finds that accessing the demarcation point behind sheet rock adds significantly to the physical difficulty and/or cost of accessing the subscriber’s home wiring. The Commission notes that a finding of “physical difficulty” is not required because our rule requires that we find that cutting through the sheet rock would add significantly to the physical difficulty and/or costs of accessing the subscriber’s home wiring. Nevertheless, the Commission concludes that the record supports a finding of significant physical difficulty in accessing the subscriber’s home wiring. Accessing such wiring requires some level of physical harm to the property—i.e., access holes cut in the sheet rock—and that the property be restored to its original integrity and appearance. As the Commission has recognized throughout this decision, the repair is not always limited to the hole(s) cut; it can include repainting and/or re-wallpapering necessary to restore the premises. Those tasks can add significantly to the physical difficulty involved in accessing the wiring, certainly as compared to accessing wiring behind hallway molding (the example in the Commission’s rules of wiring that is not physically inaccessible). See note to 47 CFR 76.5(mm)(4). In any event, the Commission needs only find that cutting through sheet rock significantly increases the physical difficulty or cost of accessing the wiring and, as described below, the Commission finds

that the additional costs are typically significant.

12. The Commission concludes that the cost of accessing wiring behind sheet rock is significant. In analyzing the costs involved in accessing wiring behind sheet rock, the Commission recognizes that the record reveals a wide divergence among the estimates offered by commenters—ranging from \$25 to \$1,000—as the appropriate sum needed to accomplish the job. Although the Commission finds that it cannot pick a precise monetary figure that fairly reflects the costs associated with accessing cable inside wiring, we believe it is reasonable that costs estimates could include factors such as how difficult it may be to satisfy the MDU owner and manager with repair work and whether a single unit or many units are worked on in one time period. Although the Commission does not have specific quotes for restoration work, it seems likely that repainting and/or re-wallpapering entire ceilings and walls can, at a minimum, run into the hundreds of dollars, particularly for more high-end MDUs that use more expensive surface finishes. These figures appear significant, especially when compared to the estimates we received for accessing wiring behind hallway molding.

13. The Commission is persuaded that removing and replacing molding is generally less intrusive and less expensive than cutting into sheet rock, locating the wiring, and then repairing the wall or ceiling to the satisfaction of MDU owners and managers. While there may be cases in which the cost of accessing wiring behind sheet rock may be comparable to removable molding the record demonstrates that the cost for sheet rock generally will be higher, and often significantly so.

14. The Commission finds that that cable wiring located behind sheet rock qualifies as physically inaccessible under Commission rules for purposes of determining the demarcation point between home wiring and home run wiring. Specifically, the Commission concludes that (1) accessing such wiring causes significant damage or modification to a preexisting structural element, and (2) accessing wiring behind sheet rock generally adds significantly to the physical difficulty and/or cost of accessing the subscriber's home wiring. The Commission's cable inside wiring rules are intended to facilitate competition in video distribution markets. This ruling will foster opportunities for competing MVPDs to provide service in MDUs by clarifying the circumstances under which the existing cable home run

wiring in MDUs can be made available to alternative video service providers.

Procedural Matters

15. *Final Regulatory Flexibility Act.* As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Further Notice* in this proceeding. The Commission sought written public comment on the possible significant economic impact on small entities regarding the proposals addressed in the *Further Notice*, including comments on the IRFA. Pursuant to the RFA, a Final Flexibility Analysis is contained in Appendix C.

16. *Paperwork Reduction Act Analysis.* This Order does not contain new or modified information collection requirements subject to the paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burdens for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

17. *Congressional Review Act.* The Commission will send a copy of this 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).

II. Ordering Clauses

18. Accordingly, *it is ordered* that, pursuant to authority found in sections 1, 4(i), 601, 623, 624, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 521, 543, 544 and 552, the Commission's amendment of the Note to Section 76.5(mm)(4) of the Commission's rules to include sheet rock as an example of one of the materials that would likely be considered physically inaccessible for purposes of the Commission's cable television inside wiring rules *is affirmed*.

19. *It is further ordered*, that in light of the United States Court of Appeals for the District of Columbia's Circuit's decision in *NCTA v. FCC*, No. 03–1140, 2004 WL 335201, which remanded but did not vacate the decision adopted in *Telecommunications Services Inside Wiring, Customer Premises Equipment; Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring*, 18 FCC Rcd 1342 (2003) (“Home Wiring Decision”), the note to 47 CFR 76.5(mm)(4) adopted in the Home Wiring Decision shall remain in effect.

20. *It is further ordered* that 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 of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E7–17206 Filed 8–29–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No.: NHTSA–2006–27240]

RIN 2127–AJ98

Insurer Reporting Requirements; List of Insurers Required to File Reports

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

ACTION: Final rule.

SUMMARY: This final rule amends regulations on insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2004 calendar year before October 25, 2007. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

DATES: This final rule becomes effective on October 1, 2007, given the date of submission. Insurers listed in the appendices are required to submit reports before October 25, 2007.

If you wish to submit a petition for reconsideration of this rule, your petition must be received by October 15, 2007.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Room W41–307, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 1200 New Jersey Avenue, SE., West Building, Room W43–302, Washington, DC 20590, by

electronic mail to rosalind.proctor@dot.gov. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-0073.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information*, NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Pursuant to 49 U.S.C. 33112(f), the following insurers are subject to the reporting requirements:

(1) Issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States;

(2) Issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state; and

(3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined, in Section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under State law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular state, the insurer must report about its operations in that State.

In the final rule establishing the insurer reports requirement (49 CFR part 544), (52 FR 59; January 2, 1987), NHTSA exercised its exemption authority by listing in Appendix A each insurer that must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting, instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally, is administratively simpler since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best, which A.M. Best¹ publishes in its *State/Line Report* each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, i.e., any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and 33112(e)(1) and (2),

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that

exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to Part 544. Following the same approach as in Appendix A, NHTSA included, in Appendix C, each of the self-insurers subject to reporting instead of the self-insurers which are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine* and *Auto Rental News*.²

C. When a Listed Insurer Must File a Report

Under Part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any insurer listed in the appendices must file a report before October 25, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

II. Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On April 9, 2007, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and, C required to file reports (72 FR 17465). Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on September 5, 2006 (71 FR 52291). Based on the 2004 calendar year market share data from A.M. Best, NHTSA proposed to remove Travelers PC Group and add St Paul Travelers Companies to Appendix A.

Each of the 18 insurers listed in Appendix A are required to file a report before October 25, 2007, setting forth the information required by Part 544 for each State in which it did business in the 2004 calendar year. As long as these 18 insurers remain listed, they are required to submit a report by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists insurers required to report for particular States for calendar year 2004, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2004 calendar year data for market shares from A.M. Best, we proposed to remove Arbella Mutual Insurance (Massachusetts) and add the

¹ A.M. Best Company is a well-recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

² *Automotive Fleet Magazine* and *Auto Rental News* are publications that provide information on the size of fleets and market share of rental and leasing companies.

Farm Bureau of Idaho Group (Idaho) to Appendix B.

The nine insurers listed in Appendix B are required to report on their calendar year 2004 activities in every State where they had a 10 percent or greater market share. These reports must be filed by October 25, 2007, and set forth the information required by Part 544. As long as these nine insurers remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Based on information in *Automotive Fleet Magazine* and *Auto Rental News* for 2004, NHTSA proposed to add Emkay, Inc. Each of the eight companies (including franchisees and licensees) listed in Appendix C are required to file reports for calendar year 2004 no later than October 25, 2007, and set forth the information required by Part 544. As long as those eight companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Public Comments on Final Determination

Insurers of Passenger Motor Vehicles

The agency received no comments in response to the NPRM for Appendices A, B and C. Therefore, this final rule adopts the proposed changes to Appendix A, B and C. Accordingly, NHTSA has determined that each of the 18 insurers listed in Appendix A, each of the nine insurers listed in Appendix B and each of eight companies listed in Appendix C are required to submit an insurer report on its experience for calendar year 2004 as required by 49 CFR Part 544.

Submission of Theft Loss Report

Passenger motor vehicle insurers listed in the appendices can forward their theft loss reports to the agency in several ways:

a. *Mail:* Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, Department of Transportation, NHTSA, West Building, 1200 New Jersey Avenue, SE., NVS-131, Room W43-302, Washington, DC 20590

b. *E-mail:* rosalind.proctor@dot.gov; or

c. *Fax:* (202) 493-0073.

Theft loss reports may also be submitted to the docket electronically by:

d. Logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "ES Submit" or "Help" to obtain instructions for filing the document electronically.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866, Regulatory Planning and Review. NHTSA has considered the impact of this final rule and determined that the action is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this rule, reflecting current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing Part 544 (52 FR 59; January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the Bureau of Labor Statistics Consumer Price Index for 2006 (*see* <http://www.bls.gov/cpi>), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is \$100,800 for any insurer added to Appendix A, \$40,320 for any insurer added to Appendix B, and \$11,632 for any insurer added to Appendix C. In this final rule, the agency made no additional changes to Appendices A, B, or C of the list of insurers published in the April 9, 2007 NPRM. Therefore, there will be no additional net effect of this final rule. Accordingly, this final will adopt the proposed changes to Appendix A, B and C.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation were placed in Docket No. T86-01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, 1200 New Jersey Avenue, SE., West Building (Ground Floor), Room W12-140, Washington, DC 20590, or by calling (202) 366-4949.

2. Paperwork Reduction Act

The information collection requirements in this final rule were

submitted and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The existing information collection indicates that the number of respondents for this collection is forty-five, however, the actual number of respondents fluctuate from year to year. Therefore, because the number of respondents required to report for this final rule does not exceed the number of respondents indicated in the existing information collection, the agency does not believe that an amendment to the existing information collection is necessary. This collection of information is assigned OMB Control Number 2127-0547 ("Insurer Reporting Requirements") and is approved for use through August 31, 2009, and the agency will seek to extend the approval afterwards.

3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies listed on Appendices A, B, or C are construed to be a small entity within the definition of the RFA. "Small insurer" is defined, in part under 49 U.S.C. 33112, as any insurer whose premiums for all forms of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice exempts all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency exempts all "self insured rental and leasing companies" that have fleets of fewer than 50,000 vehicles. Any self-insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed according to the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. *Environmental Impacts*

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

6. *Civil Justice Reform*

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, and section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

7. *Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading, at the beginning, of this document to find this action in the Unified Agenda.

8. *Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the proposal clearly stated?
- Does the proposal contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the proposal easier to understand?

If you have any responses to these questions, you can forward them to me several ways:

a. *Mail*: Rosalind Proctor, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, West Building, 1200 New Jersey Avenue, SE., NVS-131, Room W43-302, Washington, DC 20590.

b. *E-mail*: rosalind.proctor@dot.gov; or

c. *Fax*: (202) 493-0073.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—INSURER REPORTING REQUIREMENTS

■ 1. The authority citation for part 544 continues to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

■ 2. In § 544.5, paragraph (a), the second sentence is revised to read as follows:

§ 544.5 General requirements for reports.

(a) * * * This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (e.g., the report due by October 25, 2007 will contain the required information for the 2004 calendar year).

* * * * *

■ 3. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group
American International Group
Auto-Owners Insurance Group
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Hartford Insurance Group
Liberty Mutual Insurance Companies

Metropolitan Life Auto & Home Group
Mercury General Group
Nationwide Group
Progressive Group
Safeco Insurance Companies
State Farm Group
St Paul Travelers Companies¹
USAA Group
Farmers Insurance Group

■ 4. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Auto Club (Michigan)
Commerce Group, Inc. (Massachusetts)
Farm Bureau of Idaho Group (Idaho)¹
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Safety Group (Massachusetts)
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

■ 5. Appendix C to part 544 is revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Cendant Car Rental
Dollar Thrifty Automotive Group
EmKay, Inc.¹
Enterprise Rent-A-Car
Enterprise Fleet Services
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
U-Haul International, Inc. (Subsidiary of AMERCO)
Vanguard Car Rental USA

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7-17149 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-59-P

¹ Indicates a newly listed company which must file a report beginning with the report due October 25, 2007.

¹ Indicates a newly listed company which must file a report beginning with the report due October 25, 2007.

¹ Indicates a newly listed company which must file a report beginning with the report due October 25, 2007.

Proposed Rules

Federal Register

Vol. 72, No. 168

Thursday, August 30, 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.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

RIN AC11

Specifications for Primary Underground Power Cable

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service, an agency delivering the United States Department of Agriculture's (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, proposes to amend its regulations regarding Bulletin 50-70 (U-1) for electric distribution specifications for 15 kV and 25 kV primary underground power cable. This proposed rule is necessary to provide Agency electric borrowers with updated specifications for 15 kV and 25 kV underground power cable, and to provide borrowers with specifications for 35 kV underground power cable for use in 25 kV primary systems. These specifications cover single-phase and multi-phase primary underground power cable which Agency electric borrowers use to construct their rural underground electric distribution systems.

DATES: Written comments must be received by the Agency or bear a postmark or equivalent no later than October 29, 2007.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Utilities Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RUS-07-Electric-0009 to submit or view public comments and to view supporting and related materials available

electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail:* Addressed to Michele L. Brooks, Acting Director, Program Development and Regulatory Analysis, USDA Rural Development, Utilities Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522.

- *Hand Delivery/Courier:* Addressed to Michele L. Brooks, Acting Director, Program Development and Regulatory Analysis, USDA Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 5168 South Building, Washington, DC 20250-1522.

Instructions: All submissions received must include the agency name and the subject heading "Primary Underground Power Cable." All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov/rus/index2/Comments.htm>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Trung V. Hiu, Electrical Engineer, Electric Staff Division, Distribution Branch, Utilities Program, USDA Rural Development, U.S. Department of Agriculture, Room 1262-S, 1400 Independence Avenue, SW., Washington, DC 20250-1569. Telephone: (202) 720-1877. Fax: (202) 720-7491. E-mail: Trung.Hiu@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is exempted from the Office of Management and Budget (OMB) review for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A notice of final rule entitled "Department Programs and

Activities Excluded from Executive Order 12372," (50 FR 47034) exempted USDA Rural Development Utilities Program loans and loan guarantees to from coverage under this order.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. USDA Rural Development has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule and in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Executive Order 13132

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications to require preparation of a Federalism Assessment.

Regulatory Flexibility Act Certification

USDA Rural Development has been determined that the Regulatory Flexibility Act is not applicable to this rule since USDA Rural Development is not required by 5 U.S.C. 551 et seq. or any other provision of the law to publish a notice of proposed rulemaking with request to the subject matter of this rule.

Information Collection and Recordkeeping Requirements

This proposed rule contains no additional information collection or recordkeeping requirements approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This

catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034), advising that USDA Rural Development Utilities Programs loans and loan guarantees are excluded from the scope of Executive Order 12372.

Unfunded Mandates

This proposed rule contains no Federal Mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act of 1995 [2 U.S.C. Chapter 25]) for State, local, and tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act Certification

USDA Rural Development has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Therefore, this action does not require an

environmental impact statement or assessment.

Background

Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), the Agency is proposing to amend Title 7 CFR Chapter XVII, Part 1728, Electric Standards and Specifications for Materials and Construction, by revising RUS Bulletin 50-70 (U-1), "Specifications for 15 kV and 25 kV Primary Underground Power Cable." This revised bulletin will be renumbered and renamed Bulletin 1728F-U1, "Specification for Primary Underground Power Cable." The proposed action would continue to incorporate the revised bulletin by reference in 7 CFR 1728.97 and RUS Bulletin 50-70 (U-1) would be rescinded and removed from the list in 7 CFR 1728.97. The change in the bulletin number and reformatting is necessary to conform to current publications and directives system. The Agency maintains a system of bulletins that contain construction standards and specifications for materials and equipment which must be complied with when system facilities are constructed by electric and telecommunications borrowers in accordance with the loan contract. These standards and specifications contain standard construction units and material items and equipment units commonly used in electric and telecommunications borrowers' systems.

Bulletin 50-70 (U-1) provides standard requirements for 15 kV and 25 kV single-phase and multi-phase primary underground power cable with cross-linked polyethylene with tree retardant or ethylene propylene rubber insulation, concentric neutral, and insulating outer jacket. The Agency proposes to update the specifications for 15 kV and 25 kV primary underground cable while adding specifications for 35 kV primary underground power cable.

The following changes and updating of Bulletin 50-70 (U-1) are proposed:

1. Water blocking sealant would be required in all stranded conductor cables.
2. The plain cross-linked polyethylene (XLP) would be removed and be replaced by tree-retardant cross-linked polyethylene (TR-XLPE) as an acceptable insulation material.
3. Nominal insulation thickness on 25 kV cable would be reduced from 345 mils to 260 mils.
4. An optional semi-conducting jacketing material would be added to the specification for cables of all three specified voltages. Cables with semi-conducting jackets may be used by USDA Rural Development borrowers in areas with soil resistivity greater than 25 ohm-meter, in lieu of using cables with an insulating jacket to help improve the effectiveness of system grounding in locations of high soil resistivity.

The following table summarizes all of the changes and contains a cross walk between the format of the current bulletin and the new proposed bulletin:

RUS SPECIFICATIONS FOR PRIMARY UNDERGROUND POWER CABLE

[Summary of proposed changes]

Existing section Bulletin 50-70 (U-1) (old numbering system)	Proposed new location Bulletin 1728F-U1 (new numbering system)	Action taken	Proposed content change
N/A	1.a Summary	New addition	Identifies new title and number for REA Bulletin 50-70(U-a) and updates the superseded reference.
N/A	1.b Principal Revisions.	New addition	Lists the principal changes made in the reissued and renumbered bulletin.
1.1.1 Scope	2.a General Specifications.	Modified	States the revised scope to add 35 kV rated cable and semiconducting jacket to the existing 15 and 25 kV specifications. Removes XLPE as an acceptable insulation material. Removes reference to 13.2/7.62 kV power cables.
1.1.2	2.b	No change	
1.1.3	2.c	Modified	Adds conductor size for 35 kV cable.
1.1.4	2.d	Modified	Updates reference to the renamed industry standard reference for material specifications (this comment pertains to all such references throughout Bulletin 1728F-U1).
1.1.5	2.d	No substantive change.	Updates reference to renamed industry standard references.
2.	3.a	Modified	Updates references to renamed industry standard references for material specifications. Incorporates additional material specifications added to the industry standard reference since the last publication of this bulletin.
N/A	3.b(1), b(2)	New	Provides information to reader on where to obtain industry standard references incorporated in this bulletin.
3.3.1	4.a	No change	

RUS SPECIFICATIONS FOR PRIMARY UNDERGROUND POWER CABLE—Continued
[Summary of proposed changes]

Existing section Bulletin 50–70 (U– 1) (old numbering sys- tem)	Proposed new location Bulletin 1728F–U1 (new numbering system)	Action taken	Proposed content change
3.3.2	4.b	Modified	Adds combination unilay stranded phase conductors.
3. 3.2.1	4.b	Modified	Adds combination unilay stranded phase conductors.
3.3.3.1	4.c(1)	No change	
3.3.3.2	4.c(2)	Modified	Adds compact round concentric-lay-stranded phase conductors and combina- tion unilay stranded aluminum phase conductors.
3.3.4	4.c(3)	Modified	Changes the acceptable filler for interstices between strands of stranded con- ductors from “conductive” material to “material designed to fill the inter- stices,” adds requirement that the surfaces of the strands that form the outer surface of the stranded conductor shall be free of the fill material. Adds testing requirement for compatibility of the strand fill material and water penetration.
N/A	4.c(4)	Added	Requires the solid conductor and center strand of stranded conductors to be indented at fixed interval with the name of manufacturer and year of manu- facture.
4.4.1	5.a	No substantive change.	
5.5.1.1, 5.1.2, 5.1.3	6.a	Modified	Removes XLPE as an acceptable insulation material. Conforms references to industry standard references.
5.2	6.b	Modified	Maintains 220 mils as the nominal allowed insulation thickness on 15 kV cable, reduces the allowed insulation nominal thickness from 345 mils to 260 mils on 25 kV cable and establishes nominal insulation thickness of 345 mils on 35 kV cable.
6.6.1	7.a	No change	
6.6.2		Deleted	Removes specific test requirement for sunlight exposure and atmospheric conditions. There is no current test reference available.
6.6.3	7.b	No change	
6.6.4	7.c	Modified	Specifies specific stripping tension values in lieu of cross referencing industry standards.
6.6.5	7.d	No change	
7.7.1	8.a	Modified	Adds requirement that concentric neutral wires shall remain in continuous inti- mate contact with the extruded insulation shield.
7.7.2		Deleted	
7.7.3	8.a		Adds full neutral requirement for single phase and 1/3 neutral requirement for three phase applications. Establishes minimum wire size of 16 AWG for the concentric neutral.
7.7.4	8.b	No substantive change.	
8.8.1	9.a	Modified	Adds semi-conducting outer jacket.
8.8.1.1	9.a(1)	No substantive change.	Adds requirement that the jacket material shall have three red stripes longitu- dinally extruded into the jacket surface 120 degrees apart.
8.8.1.2	9.a(2)	No substantive change.	Adds medium density and high density HMW black polyethylene compound. Specifies that polyvinyl chloride (PVC) and chlorinated polyethylene (CPE) jackets are not acceptable.
8.2		Deleted	
8.3	9.b	No change	
9.1	10.	No change	
10.1	11.a	No substantive change.	
10.1.1	11.a(1)	No change	
10.1.2	11.a(2)	No change	
10.1.3	11.a(3)	No change	
10.2	11.b	No substantive change.	Eliminates affirmative requirements to submit data to REA.
10.2.1	11.b(1)	No change	
10.2.2	11.b(2)	No change	
10.3	11.c	Modified	Clarifies that the tests in this section 11c are to be performed on cable jack- ets from the same production sample as is subjected to tests specified in section 11b.
10.3.1	11.c(1)	No change	
10.3.2	11.c(2)	Modified	Prescribes the same test voltage (4.5kV AC) for cable diameters less than or equal to 1.5 inches and sets a test voltage of 7.0 kV for cable diameters greater than 1.5 inches.
10.4	11.d	No change	
10.5		Deleted	Removes measurement requirement that is implicit in other sections of the bulletin.

RUS SPECIFICATIONS FOR PRIMARY UNDERGROUND POWER CABLE—Continued

[Summary of proposed changes]

Existing section Bulletin 50–70 (U– 1) (old numbering sys- tem)	Proposed new location Bulletin 1728F–U1 (new numbering system)	Action taken	Proposed content change
10.6	11.e	Added	Adds provision that certified copies of all tests results performed pursuant to this renumbered section 11 shall be provided on request of the borrower for all orders.
11.1	12.a	Modified	Clarifies with greater specificity markings that are considered suitable on the outer surface of the jacket.
11.2	12.b	Modified	Adds requirement that each end of the cable shall be firmly and properly secured to the reel.
N/A	12.c	Added	Adds requirement that reels are to be covered with a suitable covering to help protect the cable.
11.3	12.d	No substantive change.	Provides that the beginning and ending sequential footage numbers are to be included on the label regardless of whether they are marked on the cable jacket.

List of Subjects in 7 CFR Part 1728

Electric power, Loan programs—
energy, Rural areas.

For the reasons set out in the
preamble, 7 CFR part 1728 is proposed
to be amended as follows:

**PART 1728—ELECTRIC STANDARDS
AND SPECIFICATIONS FOR
MATERIALS AND CONSTRUCTION**

1. The authority citation for part 1728
continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C.
1921 *et seq.*; 7 U.S.C. 6941 *et seq.*

2. Section 1728.97(b) is amended by
removing the entry for RUS Bulletin 50–
70, and adding to the list of bulletins,
in numerical order, the entry for
Bulletin 1728F–U1 to read as follows:

**§ 1729.97 Incorporation by reference of
electric standards and specifications.**

* * * * *

(b) List of bulletins.

* * * * *

Bulletin 1728F–U1, Specifications for
Primary Underground Power Cable,
[Insert month and year of effective date
of final rule].

* * * * *

Dated: August 23, 2007.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E7–17194 Filed 8–29–07; 8:45 am]

BILLING CODE 3410–15–P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52**

**[EPA–R01–OAR–2007–0373; A–1–FRL–
8461–4]**

**Approval and Promulgation of Air
Quality Implementation Plans;
Connecticut; Establishment of Interim
Progress for the Fine Particle National
Ambient Air Quality Standard**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to
approve a State Implementation Plan
(SIP) revision submitted by the State of
Connecticut. This revision proposes to
establish early fine particulate (PM_{2.5})
transportation conformity emission
budgets for the Connecticut portion of
the New York–Northern New Jersey–
Long Island, NY–NJ–CT PM_{2.5}
nonattainment area. This action is being
taken under the Clean Air Act.

DATES: Written comments must be
received on or before October 1, 2007.

ADDRESSES: Submit your comments,
identified by Docket ID No. EPA–R01–
OAR–2007–0373 by one of the following
methods:

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

2. *E-mail*: arnold.anne@epa.gov.

3. *Fax*: (617) 918–0047.

4. *Mail*: “EPA–R01–OAR–2007–
0373”, Anne Arnold, U.S.
Environmental Protection Agency, EPA
New England Regional Office, One
Congress Street, Suite 1100 (mail code
CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier*: Deliver
your comments to: Anne Arnold,

Manager, Air Quality Planning Unit,
Office of Ecosystem Protection, U.S.
Environmental Protection Agency, EPA
New England Regional Office, One
Congress Street, 11th floor, (CAQ),
Boston, MA 02114–2023. 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 legal
holidays.

Please see the direct final rule which
is located in the Rules Section of this
Federal Register for detailed
instructions on how to submit
comments.

FOR FURTHER INFORMATION CONTACT:
Donald O. Cooke, Air Quality Planning
Unit, U.S. Environmental Protection
Agency, EPA New England Regional
Office, One Congress Street, Suite 1100
(CAQ), Boston, MA 02114–2023,
telephone number (617) 918–1668, fax
number (617) 918–0668, e-mail
cooke.donald@epa.gov.

SUPPLEMENTARY INFORMATION: In the
Final Rules Section of this **Federal
Register**, EPA is approving the State’s
SIP submittal as a direct final rule
without prior proposal because the
Agency views this as a noncontroversial
submittal and anticipates no adverse
comments. A detailed rationale for the
approval is set forth in the direct final
rule. If no adverse comments are
received in response to this action rule,
no further activity is contemplated. If
EPA receives adverse comments, the
direct final rule will be withdrawn and
all public comments received will be
addressed in a subsequent final rule
based on this proposed rule. EPA will
not institute a second comment period.
Any parties interested in commenting

on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 20, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E7-17002 Filed 8-29-07; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 05-265, FCC No. 07-143]

Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Further Notice of Proposed Rulemaking (FNPRM), the Federal Communications Commission (FCC) seeks comment on whether it should extend the automatic roaming obligation of commercial mobile radio service (CMRS) carriers to non-interconnected services or features, including services that have been classified as information services, such as wireless broadband Internet access service, or other non-CMRS services. The FCC further seeks comment on the implications of extending the automatic roaming obligation in this manner.

DATES: Comments due on or before October 29, 2007 and reply comments are due on or before November 28, 2007.

ADDRESSES: You may submit comments, identified by WT Docket No. 05-265, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *E-mail:* Include the docket number in the subject line of the message.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov

or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Christina Clearwater at (202) 418-1893, Christina.Clearwater@fcc.gov, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau; Won Kim at (202) 418-1368, Won.Kim@fcc.gov, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM), WT Docket No. 05-265, FCC No. 07-143, adopted August 7, 2007 and released August 16, 2007. The full text of the FNPRM is available for public inspection 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 St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail FCC@BCPIWEB.COM.

Initial Paperwork Reduction Act of 1995 Analysis

This document does not contain an information collection subject to the Paperwork Reduction Act of 1995, and therefore does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.

Synopsis

1. In the FNPRM, the FCC seeks comment on whether it should extend the automatic roaming obligation of CMRS carriers to non-interconnected services or features, including services that have been classified as information services, such as wireless broadband Internet access service, or other non-interconnected non-CMRS services offered by CMRS carriers, and on the legal and policy basis for doing so. The FCC further seeks comment on the implications of extending the automatic roaming obligation in this manner.

2. To what extent, if any, would requiring roaming access to non-interconnected services and features

undermine carriers' incentive to innovate or invest in mobile wireless broadband network facilities? Would the potential for undermining innovation be mitigated by conditioning roaming access to non-interconnected services and features, as the Commission has, for example, with push-to-talk and SMS? Namely, should the Commission require that the requesting carrier must offer the requested service or feature to its subscribers on its own home network; that roaming must be technically feasible; and any changes to the would-be host carrier's network that are necessary to accommodate roaming requests extending to these services and features must be economically reasonable?

3. If the Commission were to extend automatic roaming obligations to non-interconnected services and features, are there any special issues (technical, economic, or otherwise) associated with roaming data networks that may not exist when roaming among CMRS carriers' interconnected voice networks? For example, are there any issues regarding network capacity, network integrity, or network security? The Commission seeks comment on the effect that automatic roaming would have on the capacity of data networks and the ability of carriers to offer full access to their own customers. The Commission would be concerned if requiring a carrier to offer roaming service on its data network to the customers of other carriers resulted in the carrier facing capacity constraints that adversely affect its own customers. The Commission therefore asks whether a carrier should have the right to limit access to its network by roamers, and what parameters should be considered as justification for such limits. The Commission invites commenters to suggest specific standards for determining when the requirement should or should not apply.

4. If the Commission were to extend automatic roaming obligations to non-interconnected services and features, should all such services and features be included? Are there any public interest reasons to treat narrowband and broadband data services differently in the context of automatic roaming? In the Wireless Broadband Classification Order,¹ the Commission determined that mobile wireless broadband Internet access service is an information service, and that it is not CMRS. If the

¹ See generally, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, Declaratory Ruling, 22 FCC Rcd 5901 (2007).

Commission were to impose an automatic roaming obligation on mobile wireless broadband Internet access services, how could it do so in accordance with the determinations in that order? For example, could the Commission base the requirement on Title I ancillary jurisdiction, or on the Title III regulation of radio services? Or should the Commission restrict the automatic roaming mandate only to non-interconnected data services that are not classified as information services? The Commission notes that while a few CMRS providers have requested that the Commission require automatic roaming for all services, including non-interconnected data services provided over enhanced digital networks, other CMRS providers, including several small carriers, are against imposing automatic roaming rules for enhanced data services, arguing that forced roaming would thwart market forces by benefiting only those providers that have opted to invest less on their systems. Given these contradictory positions, what is the appropriate balance to be drawn between providing seamless service accessibility to end-users, and allowing service providers to gain competitive advantages from their investments and innovations?

Ex Parte Presentations

5. The rulemaking shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.² Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.³ Other requirements pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules.⁴

Comment Filing Procedures

6. Pursuant to §§ 1.415 and 1.419 of the Commission's rules,⁵ interested parties may file comments on or before 60 days after publication of the FNPRM in the **Federal Register** and reply comments regarding the FNPRM may be filed on or before 90 days after publication of the FNPRM in the **Federal Register**. All filings related to this FNPRM should refer to WT Docket

No. 05–265. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁶

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

- **ECFS filers** must transmit one electronic copy of the comments for WT Docket No. 05–265. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and WT Docket No. 05–265. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

7. Parties should send a copy of their filings to: Christina Clearwater, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554, or by e-mail to

christina.clearwater@fcc.gov and Won Kim, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC 20554, or by e-mail to won.kim@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, Room CY–B402, 445 12th Street, SW., Washington, DC 20554, (202) 488–5300, or via e-mail to fcc@bcpiweb.com.

8. Documents in WT Docket No. 05–265 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail fcc@bcpiweb.com.

9. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CARTS, etc.) by e-mail: FCC504@fcc.gov; phone: 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act of 1980, as amended (the "RFA"),⁷ the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact of the policies and rules proposed in the Further Notice of Proposed Rulemaking ("FNPRM") on a substantial number of small entities. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM provided in the item. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA").⁸ In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.⁹

A. Need for, and Objectives of, the Proposed Rules

11. Building on the decisions made in the Report and Order, the FNPRM

⁷ The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

⁸ See 5 U.S.C. 603(a).

⁹ See 5 U.S.C. 603(a).

² 47 CFR 1.200 *et seq.*

³ See 47 CFR 1.1206(b)(2).

⁴ 47 CFR 1.1206(b).

⁵ 47 CFR 1.415, 1.419.

⁶ See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

encompasses issues concerning the applicability of the automatic roaming obligation for all wireless providers. In the Report and Order, the Commission clarifies that the automatic roaming is a common carrier obligation and adopts an automatic roaming rule that is applicable to services offered by CMRS carriers that are real-time, two-way switched voice or data services that are interconnected with the public switched network, and to push-to-talk and text messaging service. Recognizing wireless subscribers' increasing reliance on mobile telephony services, especially the growing demand of data services by consumers, the FNPRM seeks comment on whether the Commission should extend the applicability of the automatic roaming requirements to non-interconnected services or features, including services that have been classified as information services, such as wireless broadband Internet access service, or other non-CMRS services. The FNPRM further seeks comment on the implications of extending the automatic roaming obligation in this manner. The Commission's primary objective in this proceeding is to facilitate seamless wireless communications for consumers, even when they are outside of the coverage area of their own service providers.

12. In the FNPRM, the Commission notes that while a few CMRS providers have requested that the Commission require automatic roaming for all services, including non-interconnected data services provided over enhanced digital networks,¹⁰ other CMRS providers, including several small carriers, are against imposing automatic roaming rules for enhanced data services, arguing that forced roaming would thwart market forces by benefiting only those providers that have opted to invest less on their systems.¹¹ Given these contradictory positions, the FNPRM seeks comments on what is the appropriate balance to be drawn between providing seamless service accessibility to end-users, and allowing service providers to gain competitive advantages from their investments and innovations.

B. Legal Basis

13. The authority for the actions taken in this FNPRM is contained in Sections 1, 4(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B) of the Communications Act

of 1934, as amended, 47 U.S.C. 151, 154(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B).

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

14. 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 proposed rules, if adopted.¹² The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹⁴ A "small business concern" is one which:

(1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹⁵ 15. In the following paragraphs, the Commission further describes and estimates the number of small entity licensees that may be affected by the rules the Commission adopts in this Report and Order. The Commission's finding that automatic roaming is a common carrier service subject to protections outlined in sections 201, 202 and 208 of the Act affects all CMRS carriers that provide real-time, two-way switched voice or data service that are interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. Such carriers are obligated to provide automatic roaming. As a common carrier obligation, the automatic roaming rule does not extend to non-interconnected services/features or services that are classified as information services or to services that are not CMRS.

16. Since this Report and Order applies to multiple services, this FRFA analyzes the number of small entities affected on a service-by-service basis. When identifying small entities that

could be affected by the Commission's new rules, this FRFA provides information that describes auction results, including the number of small entities that were winning bidders. However, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily reflect the total number of small entities currently in a particular service. The Commission does not generally require that licensees later provide business size information, except in the context of an assignment or a transfer of control application that involves unjust enrichment issues.

17. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications."¹⁶ Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.¹⁸ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.¹⁹ Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.²⁰ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²¹ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

18. *Cellular Licensees.* The SBA has developed a small business size standard for small businesses in the category "Cellular and Other Wireless

¹⁶ 13 CFR 121.201, NAICS code 517211.

¹⁷ 13 CFR 121.201, NAICS code 517212.

¹⁸ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517211 (issued Nov. 2005).

¹⁹ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

²⁰ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517212 (issued Nov. 2005).

²¹ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

¹² 5 U.S.C. 604(a)(3).

¹³ 5 U.S.C. 601(6).

¹⁴ 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

¹⁵ 15 U.S.C. 632.

¹⁰ See ACS Comments at 6; MetroPCS Comments at 25 n.58.

¹¹ See e.g., EDGE Reply Comments at 1, 8–9; see also, NDNC Comments at 3 (arguing against automating roaming rules because they create a disincentive for companies to further develop their networks).

Telecommunications.”²² Under that SBA category, a business is small if it has 1,500 or fewer employees.²³ For the census category of “Cellular and Other Wireless Telecommunications,” Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.²⁴ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²⁵ Thus, under this category and size standard, the majority of firms can be considered small.

19. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.²⁶ For Block F, an additional small business size standard for “very small business” was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.²⁷ These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA.²⁸ No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the C Block auctions. A total of 93 “small” and “very small” business bidders won approximately 40 percent of the 1,479

licenses for Blocks D, E, and F.²⁹ On March 23, 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.³⁰ On January 26, 2001, the Commission completed the auction of 422 C and F PCS licenses in Auction 35.³¹ Of the 35 winning bidders in this auction, 29 qualified as “small” or “very small” businesses. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

20. *Narrowband Personal Communications Service.* The Commission held an auction for Narrowband Personal Communications Service (PCS) licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, “small businesses” were entities with average gross revenues for the prior three calendar years of \$40 million or less.³² Through these auctions, the Commission awarded a total of forty-one licenses, 11 of which were obtained by four small businesses.³³ To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order.³⁴ A “small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million.³⁵ A “very small business” is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more

than \$15 million.³⁶ The SBA has approved these small business size standards.³⁷ A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (MTA and nationwide) licenses.³⁸ Three of these claimed status as a small or very small entity and won 311 licenses.

21. *Specialized Mobile Radio.* The Commission awards “small entity” bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years.³⁹ The Commission awards “very small entity” bidding credits to firms that had revenues of no more than \$3 million in each of the three previous calendar years.⁴⁰ The SBA has approved these small business size standards for the 900 MHz Service.⁴¹ The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the \$15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the \$15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band.⁴² A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.⁴³

22. The auction of the 1,050 800 MHz SMR geographic area licenses for the

²² 13 CFR 121.201, North American Industry Classification System (NAICS) code 517212.

²³ *Id.*

²⁴ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517212 (issued Nov. 2005).

²⁵ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

²⁶ See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, 11 FCC Rcd 7824, 7850–7852 paras. 57–60 (1996); see also 47 CFR 24.720(b).

²⁷ See Amendment of Parts 20 and 24 of the Commission’s Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, 11 FCC Rcd 7824, 7852 para. 60.

²⁸ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

²⁹ FCC News, “Broadband PCS, D, E and F Block Auction Closes,” No. 71744 (rel. January 14, 1997).

³⁰ See “C, D, E, and F Block Broadband PCS Auction Closes,” public notice, 14 FCC Rcd 6688 (WTB 1999).

³¹ See “C and F Block Broadband PCS Auction Closes; Winning Bidders Announced,” public notice, 16 FCC Rcd 2339 (2001).

³² Implementation of Section 309(j) of the Communications Act—Competitive Bidding Narrowband PCS, Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 175, 196 para. 46 (1994).

³³ See “Announcing the High Bidders in the Auction of ten Nationwide Narrowband PCS Licenses, Winning Bids Total \$617,006,674,” public notice, PNWL 94–004 (rel. Aug. 2, 1994); “Announcing the High Bidders in the Auction of 30 Regional Narrowband PCS Licenses; Winning Bids Total \$490,901,787,” public notice, PNWL 94–27 (rel. Nov. 9, 1994).

³⁴ Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS, Second Report and Order and Second Further Notice of Proposed Rule Making, 15 FCC Rcd 10456, 10476 para. 40 (2000).

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

³⁸ See “Narrowband PCS Auction Closes,” public notice, 16 FCC Rcd 18663 (WTB 2001).

³⁹ 47 CFR 90.814(b)(1).

⁴⁰ *Id.*

⁴¹ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999.

⁴² See “Correction to public notice DA 96–586 ‘FCC Announces Winning Bidders in the Auction of 1020 Licenses to Provide 900 MHz SMR in Major Trading Areas,’” public notice, 18 FCC Rcd 18367 (WTB 1996).

⁴³ See “Multi-Radio Service Auction Closes,” public notice, 17 FCC Rcd 1446 (WTB 2002).

General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed "small business" status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

23. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$3 million or \$15 million (the special small business size standards), or have no more than 1,500 employees (the generic SBA standard for wireless entities, discussed *supra*). One firm has over \$15 million in revenues. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities.

24. *Advanced Wireless Services.* In the AWS-1 Report and Order, the Commission adopted rules that affect applicants who wish to provide service in the 1710-1755 MHz and 2110-2155 MHz bands.⁴⁴ The AWS-1 Report and Order defines a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a "very small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. The AWS-1 Report and Order also provides small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent.

25. *Rural Radiotelephone Service.* The Commission uses the SBA small business size standard applicable to cellular and other wireless telecommunication companies, i.e., an entity employing no more than 1,500

persons.⁴⁵ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

26. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses in the 2305-2320 MHz and 2345-2360 MHz bands. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years.⁴⁶ The SBA has approved these definitions.⁴⁷ The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

27. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz Band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons.⁴⁸ For the census category of "Cellular and Other Wireless Telecommunications," Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for

the entire year.⁴⁹ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.⁵⁰ Thus, under this category and size standard, the majority of firms can be considered small.

28. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. In the 220 MHz Third Report and Order, the Commission adopted a small business size standard for defining "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁵¹ This small business standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years.⁵² A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years.⁵³ The SBA has approved these small size standards.⁵⁴ Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.⁵⁵ In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.⁵⁶ Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses:

⁴⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517212 (issued Nov. 2005).

⁵⁰ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with "1000 employees or more."

⁵¹ Amendment of Part 90 of the Commission's Rules to Provide For the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Third Report and Order, 12 FCC Rcd 10943, 11068-70 paras. 291-295 (1997).

⁵² *Id.* at 11068 para. 291.

⁵³ *Id.*

⁵⁴ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated January 6, 1998.

⁵⁵ See generally "220 MHz Service Auction Closes," public notice, 14 FCC Rcd 605 (WTB 1998).

⁵⁶ See "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," public notice, 14 FCC Rcd 1085 (WTB 1999).

⁴⁴ Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, Report and Order, 18 FCC Rcd 25162 (2003) (AWS-1 Report and Order).

⁴⁵ 13 CFR 121.201, NAICS code 517212.

⁴⁶ Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (WCS), Report and Order, 12 FCC Rcd 10785, 10879 para. 194 (1997).

⁴⁷ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

⁴⁸ 13 CFR 121.201, NAICS code 517212.

216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.⁵⁷ A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses.⁵⁸

29. *700 MHz Guard Band Licenses.* In the 700 MHz Guard Band Order, the Commission adopted size standards for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁵⁹ A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.⁶⁰ Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.⁶¹ SBA approval of these definitions is not required.⁶² An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000.⁶³ Of the 104 licenses auctioned, 96 licenses were

sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.⁶⁴

30. *Upper 700 MHz Band Licenses.* The Commission released a Report and Order authorizing service in the Upper 700 MHz band.⁶⁵ An auction for these licenses, previously scheduled for January 13, 2003, was postponed.⁶⁶

31. *Lower 700 MHz Band Licenses.* The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits.⁶⁷ The Commission has defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.⁶⁸ A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.⁶⁹ Additionally, the Lower 700 MHz Band has a third category of small business status that may be

claimed for Metropolitan/Rural Service Area (MSA/RSA) licenses. The third category is entrepreneur, which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.⁷⁰ The SBA has approved these small size standards.⁷¹ An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses.⁷² A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 CMA licenses.⁷³ Seventeen winning bidders claimed small or very small business status and won sixty licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.⁷⁴

32. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census category of “Paging.”⁷⁵ Under this category, the SBA deems a business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.⁷⁶ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.⁷⁷ Thus, under this category, the majority of firms can be considered small. In the Paging Third Report and Order, the Commission developed a small business size standard for “small businesses” and “very small

⁵⁷ See “Phase II 220 MHz Service Spectrum Auction Closes,” public notice, 14 FCC Rcd 11218 (WTB 1999).

⁵⁸ See “Multi-Radio Service Auction Closes,” public notice, 17 FCC Rcd 1446 (WTB 2002).

⁵⁹ Service Rules for the 746–764 MHz Bands, and Revisions to Part 27 of the Commission’s Rules, Second Report and Order, 15 FCC Rcd 5299 (2000). Service rules were amended in 2007, but no changes were made to small business size categories. See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands, WT Docket No. 06–150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01–309, Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03–264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06–169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06–229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96–86, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064 (2007).

⁶⁰ *Id.* at 5343 para. 108.

⁶¹ *Id.*

⁶² *Id.* at 5343 para. 108 n.246 (for the 746–764 MHz and 776–704 MHz bands, the Commission is exempt from 15 U.S.C. 632, which requires Federal agencies to obtain Small Business Administration approval before adopting small business size standards).

⁶³ See “700 MHz Guard Bands Auction Closes: Winning Bidders Announced,” public notice, 15 FCC Rcd 18026 (2000).

⁶⁴ See “700 MHz Guard Bands Auctions Closes: Winning Bidders Announced,” public notice, 16 FCC Rcd 4590 (WTB 2001).

⁶⁵ Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission’s Rules, Second Memorandum Opinion and Order, 16 FCC Rcd 1239 (2001). Service rules were amended in 2007, but no changes were made to small business size categories. See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands, WT Docket No. 06–150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01–309, Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03–264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06–169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06–229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96–86, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064 (2007).

⁶⁶ See “Auction of Licenses for 747–762 and 777–792 MHz Bands (Auction No. 31) Is Rescheduled,” public notice, 16 FCC Rcd 13079 (WTB 2003).

⁶⁷ See Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59), Report and Order, 17 FCC Rcd 1022 (2002).

⁶⁸ *Id.* at 1087–88 para. 172.

⁶⁹ *Id.*

⁷⁰ *Id.* at 1088 para. 173.

⁷¹ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999.

⁷² See “Lower 700 MHz Band Auction Closes,” public notice, 17 FCC Rcd 17272 (WTB 2002).

⁷³ See “Lower 700 MHz Band Auction Closes,” public notice, 18 FCC Rcd 11873 (WTB 2003).

⁷⁴ *Id.*

⁷⁵ 13 CFR 121.201, NAICS code 517211.

⁷⁶ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 5, NAICS code 517211 (issued Nov. 2005).

⁷⁷ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁷⁸ A “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.⁷⁹ The SBA has approved these small business size standards.⁸⁰ An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.⁸¹ Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 365 carriers reported that they were engaged in the provision of paging and messaging services.⁸² Of those, the Commission estimates that 360 are small, under the SBA-approved small business size standard.⁸³

33. Wireless Communications Services. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction.⁸⁴ A “small business” is an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” is an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these small business size

standards.⁸⁵ The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as “very small business” entities, and one that qualified as a “small business” entity.

34. Wireless Telephony. Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for “Cellular and Other Wireless Telecommunications” services.⁸⁶ Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.⁸⁷ According to Commission data, 432 carriers reported that they were engaged in the provision of wireless telephony.⁸⁸ The Commission has estimated that 221 of these are small under the SBA small business size standard.

35. Air-Ground Radiotelephone Service. The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service.⁸⁹ The Commission will use SBA’s small business size standard applicable to “Cellular and Other Wireless Telecommunications,” i.e., an entity employing no more than 1,500 persons.⁹⁰ There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

36. Aviation and Marine Radio Services. Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category “Cellular and Other Telecommunications,” which is 1,500 or fewer employees.⁹¹ Most applicants for recreational licenses are individuals.

Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of evaluation in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a “small” business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$15 million dollars. In addition, a “very small” business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$3 million dollars.⁹² There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as “small” businesses under the above special small business size standards.

37. Fixed Microwave Services. Fixed microwave services include common carrier,⁹³ private operational-fixed,⁹⁴ and broadcast auxiliary radio services.⁹⁵ At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business

⁷⁸ Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89–552, Third Report and Order and Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068–70, paras. 291–295, 62 FR 16004 (Apr. 3, 1997).

⁷⁹ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from A. Alvarez, Administrator, SBA (Dec. 2, 1998) (SBA Dec. 2, 1998 Letter).

⁸⁰ Revision of Part 22 and Part 90 of the Commission’s Rules to Facilitate Future Development of Paging Systems, Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, paras. 98–107 (1999).

⁸¹ *Id.* at 10085, para. 98.

⁸² FCC Wireline Competition Bureau, Industry Analysis and Technology Division, “Trends in Telephone Service” at Table 5.3., page 5–5 (Feb. 2007). This source uses data that are current as of October 20, 2005.

⁸³ *Id.*

⁸⁴ Public notice, “Auction of Wireless Communications Services, Auction Notes and Filing Requirements for 128 WCS Licenses Scheduled for April 15, 1997,” DA 97–386, Feb. 21, 1997.

⁸⁵ SBA Dec. 2, 1998 Letter.

⁸⁶ 13 CFR 121.201, NAICS code 517212.

⁸⁷ *Id.*

⁸⁸ FCC Wireline Competition Bureau, Industry Analysis and Technology Division, “Trends in Telephone Service” at Table 5.3, page 5–5 (Feb. 2007). This source uses data that are current as of October 20, 2005.

⁸⁹ The service is defined in section 22.99 of the Commission’s Rules, 47 CFR 22.99.

⁹⁰ 13 CFR 121.201, NAICS code 517212.

⁹¹ 13 CFR 121.201, NAICS code 517212.

⁹² Amendment of the Commission’s Rules Concerning Maritime Communications, PR Docket No. 92–257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853 (1998).

⁹³ See 47 CFR 101 *et seq.* (formerly, Part 21 of the Commission’s Rules) for common carrier fixed microwave services (except Multipoint Distribution Service).

⁹⁴ Persons eligible under parts 80 and 90 of the Commission’s Rules can use Private Operational-Fixed Microwave services. See 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee’s commercial, industrial, or safety operations.

⁹⁵ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission’s rules. See 47 CFR 74. This service is available to licensees of broadcast stations and to broadcast and cable network entities. Broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile television pickups, which relay signals from a remote location back to the studio.

specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees.⁹⁶ The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. The Commission noted, however, that the common carrier microwave fixed licensee category includes some large entities.

38. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico.⁹⁷ There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services.⁹⁸ Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.⁹⁹

39. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of \$40 million or less in the three previous calendar years.¹⁰⁰ An additional size standard for "very small business" is: An entity that, together with affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹⁰¹ The SBA has approved these small business size

standards.¹⁰² The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies adopted herein.

40. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service comprises Multichannel Multipoint Distribution Service (MMDS) systems and Multipoint Distribution Service (MDS).¹⁰³ MMDS systems, often referred to as "wireless cable," transmit video programming to subscribers using the microwave frequencies of MDS and Educational Broadband Service (formerly known as Instructional Television Fixed Service).¹⁰⁴ Wireless cable systems use 2 GHz band frequencies of the Broadband Radio Service ("BRS"), formerly Multipoint Distribution Service ("MDS"),¹⁰⁵ and the Educational Broadband Service ("EBS"), formerly Instructional Television Fixed Service ("ITFS"),¹⁰⁶ to transmit video programming and provide broadband services to residential subscribers.¹⁰⁷ These

¹⁰² See Letter to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Feb. 4, 1998).

¹⁰³ Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands, WT Docket No. 03–66, RM–10586, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004).

¹⁰⁴ See *id.*

¹⁰⁵ MDS, also known as Multichannel Multipoint Distribution Service ("MMDS"), is regulated by part 21 of the Commission's rules; see 47 CFR Part 21, subpart K; and has been renamed the Broadband Radio Service (BRS); see Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands; Part 1 of the Commission's Rules—Further Competitive Bidding Procedures; Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and the Instructional Television Fixed Service Amendment of Parts 21 and 74 to Engage in Fixed Two-Way Transmissions; Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico, 19 FCC Rcd 14165 (2004) ("MDS/ITFS Order").

¹⁰⁶ ITFS systems are regulated by Part 74 of the Commission's rules; see 47 CFR Part 74, subpart I. ITFS, an educational service, has been renamed the Educational Broadband Service (EBS); see MDS/ITFS Order, 19 FCC Rcd 14165. ITFS licensees, however, are permitted to lease spectrum for MDS operation.

¹⁰⁷ See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eleventh Annual Report, 20 FCC Rcd

services were originally designed for the delivery of multichannel video programming, similar to that of traditional cable systems, but over the past several years licensees have focused their operations instead on providing two-way high-speed Internet access services.¹⁰⁸ We estimate that the number of wireless cable subscribers is approximately 100,000, as of March 2005. Local Multipoint Distribution Service ("LMDS") is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.¹⁰⁹ As described below, the SBA small business size standard for the broad census category of Cable and Other Program Distribution, which consists of such entities generating \$13.5 million or less in annual receipts, appears applicable to MDS, ITFS and LMDS.¹¹⁰ Other standards also apply, as described.

41. The Commission has defined small MDS (now BRS) and LMDS entities in the context of Commission license auctions. In the 1996 MDS auction,¹¹¹ the Commission defined a small business as an entity that had annual average gross revenues of less than \$40 million in the previous three calendar years.¹¹² This definition of a small entity in the context of MDS auctions has been approved by the SBA.¹¹³ In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities.¹¹⁴ MDS licensees and wireless cable operators that did not receive their licenses as a result of the MDS auction fall under the SBA small business size standard for Cable and

2507, 2565 para. 131 (2006) ("2006 Cable Competition Report").

¹⁰⁸ *Id.*

¹⁰⁹ See Local Multipoint Distribution Service, 12 FCC Rcd 12545 (1997).

¹¹⁰ 13 CFR 121.201, NAICS code 517510.

¹¹¹ MDS Auction No. 6 began on November 13, 1995, and closed on March 28, 1996. (67 bidders won 493 licenses.)

¹¹² 47 CFR 21.961(b)(1).

¹¹³ See ITFS Order, 10 FCC Rcd at 9589.

¹¹⁴ 47 U.S.C. 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standards for "other telecommunications" (annual receipts of \$13.5 million or less). See 13 CFR 121.201, NAICS code 517910.

⁹⁶ 13 CFR 121.201, NAICS code 517212.

⁹⁷ This service is governed by Subpart I of Part 22 of the Commission's rules. See 47 CFR 22.1001 through 22.1037.

⁹⁸ 13 CFR 121.201, NAICS code 517212.

⁹⁹ *Id.*

¹⁰⁰ See Amendment of the Commission's Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands, ET Docket No. 95–183, Report and Order, 63 FR 6079 (Feb. 6, 1998).

¹⁰¹ *Id.*

Other Program Distribution. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of \$13.5 million annually. Therefore, we estimate that there are approximately 850 small entity MDS (or BRS) providers, as defined by the SBA and the Commission's auction rules.

42. Educational institutions are included in this analysis as small entities; however, the Commission has not created a specific small business size standard for ITFS (now EBS).¹¹⁵ The Commission estimates that there are currently 2,032 ITFS (or EBS) licensees, and all but 100 of the licensees are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small entities.

43. *Local Multipoint Distribution Service*. Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.¹¹⁶ The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹¹⁷ An additional small business size standard for "very small business" was added as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹¹⁸ The SBA has approved these small business size standards in the context of LMDS auctions.¹¹⁹ There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders.

44. *218–219 MHz Service*. The first auction of 218–219 MHz spectrum

resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years.¹²⁰ In the 218–219 MHz Report and Order and Memorandum Opinion and Order, the Commission established a small business size standard for a "small business" as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed \$15 million for the preceding three years.¹²¹ A "very small business" is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed \$3 million for the preceding three years.¹²² Currently, no second auction is scheduled.

45. *24 GHz—Incumbent Licensees*. This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of "Cellular and Other Wireless Telecommunications" companies. This category provides that such a company is small if it employs no more than 1,500 persons.¹²³ The Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent¹²⁴ and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent

licensee in the 24 GHz band is a small business entity.

46. *24 GHz—Future Licensees*. With respect to new applicants in the 24 GHz band, the small business size standard for "small business" is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of \$15 million.¹²⁵ "Very small business" in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years.¹²⁶ The SBA has approved these small business size standards.¹²⁷ These size standards will apply to the future auction, if held.

47. *Internet Service Providers*. The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs "provide clients access to the Internet and generally provide related services such as Web hosting, Web page designing, and hardware or software consulting related to Internet connectivity."¹²⁸ Under the SBA size standard, such a business is small if it has average annual receipts of \$23 million or less.¹²⁹ According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year.¹³⁰ Of these, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by the Commission's action.

48. *Part 15 Device Manufacturers*. The Commission has not developed a definition of small entities applicable to unlicensed communications devices manufacturers. Therefore, the Commission will utilize the SBA definition applicable to Radio and Television Broadcasting and Wireless Communications Equipment

¹²⁵ Amendments to Parts 1, 2, 87 and 101 of the Commission's Rules to License Fixed Services at 24 GHz, Report and Order, 15 FCC Rcd 16934, 16967 (2000); see also 47 CFR 101.538(a)(2).

¹²⁶ Amendments to Parts 1, 2, 87 and 101 of the Commission's Rules to License Fixed Services at 24 GHz, Report and Order, 15 FCC Rcd 16934, 16967 (2000); see also 47 CFR 101.538(a)(1).

¹²⁷ See Letter to Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Gary M. Jackson, Assistant Administrator, SBA (July 28, 2000).

¹²⁸ U.S. Census Bureau, "2002 NAICS Definitions: 518111 Internet Service Providers" (Feb. 2004) <http://www.census.gov>.

¹²⁹ 13 CFR 121.201, NAICS code 518111 (changed from previous code 514191, "On-Line Information Services," in Oct. 2002).

¹³⁰ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 514191 (issued Oct. 2000).

¹¹⁵ In addition, the term "small entity" within SBREFA applies to small organizations (nonprofits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. 601(4)–(6). The Commission does not collect annual revenue data on ITFS licensees.

¹¹⁶ See Local Multipoint Distribution Service, Second Report and Order, 12 FCC Rcd 12545 (1997).

¹¹⁷ *Id.*

¹¹⁸ See *id.*

¹¹⁹ See Letter to Dan Phythyon, Chief, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Jan. 6, 1998).

¹²⁰ Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, Fourth Report and Order, 59 FR 24947 (May 13, 1994).

¹²¹ Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169, Report and Order and Memorandum Opinion and Order, 64 FR 59656 (Nov. 3, 1999).

¹²² Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169, Report and Order and Memorandum Opinion and Order, 64 FR 59656 (Nov. 3, 1999).

¹²³ 13 CFR 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹²⁴ Teligent acquired the DEMS licenses of FirstMark, the only licensee other than TRW in the 24 GHz band whose license has been modified to require relocation to the 24 GHz band.

Manufacturing. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment."¹³¹ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees.¹³² According to Census Bureau data for 2002, there were 1,041 establishments in this category that operated for the entire year.¹³³ Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.¹³⁴ Thus, under this size standard, the majority of firms can be considered small.

49. Telephone Apparatus Manufacturing. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as

bridges, routers, and gateways."¹³⁵ The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which is: All such firms having 1,000 or fewer employees.¹³⁶ According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year.¹³⁷ Of this total, 511 had employment of under 1,000, and an additional 7 had employment of 1,000 to 2,499.¹³⁸ Thus, under this size standard, the majority of firms can be considered small.

50. Other Communications Equipment Manufacturing. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment)."¹³⁹ The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees.¹⁴⁰ According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year.¹⁴¹ Of this

total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999.¹⁴² Thus, under this size standard, the majority of firms can be considered small.

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

51. Should the Commission decide to extend the automatic roaming requirement to non-interconnected services or features, including services that have been classified as information services, such as broadband Internet access service, or other non-CMRS services, the only reporting or recordkeeping costs incurred will be administrative costs to ensure that an entity's practices are in compliance with the automatic rule. The compliance requirement is that carriers must provide automatic roaming to any requesting technologically compatible carrier outside of the requesting carrier's home market on reasonable and non-discriminatory terms and conditions.¹⁴³ The Commission seeks comment on the possible burden such requirements would place on small entities. Also, the Commission seeks comment on whether a special approach toward any possible compliance burden on small entities might be appropriate. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any compliance requirement that may result from this proceeding.

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

52. 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.¹⁴⁴

the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 471.

¹⁴² *Id.* An additional 3 establishments had employment of 1,000 or more.

¹⁴³ See Further Notice of Proposed Rulemaking, Section 78.

¹⁴⁴ See 5 U.S.C. 603(c).

¹³¹ U.S. Census Bureau, 2002 NAICS Definitions, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹³² 13 CFR 121.201, NAICS code 334220.

¹³³ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

¹³⁴ *Id.* An additional 18 establishments had employment of 1,000 or more.

¹³⁵ U.S. Census Bureau, 2002 NAICS Definitions, "334210 Telephone Apparatus Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹³⁶ 13 CFR 121.201, NAICS code 334210.

¹³⁷ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334210 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 450.

¹³⁸ *Id.* An additional 4 establishments had employment of 2,500 or more.

¹³⁹ U.S. Census Bureau, 2002 NAICS Definitions, "334290 Other Communications Equipment Manufacturing"; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

¹⁴⁰ 13 CFR 121.201, NAICS code 334290.

¹⁴¹ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334290 (released May 26, 2005); <http://factfinder.census.gov>. The number of "establishments" is a less helpful indicator of small business prevalence in this context than would be the number of "firms" or "companies," because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including

53. The Commission's primary objective in this proceeding is to facilitate seamless wireless communications for consumers, even when they are outside of the coverage area of their own service providers. The FNPRM seeks to build on the decisions made in the Report and Order. In the Report and Order, the Commission clarifies that the automatic roaming is a common carrier obligation and adopts an automatic roaming rule that is applicable to services offered by CMRS carriers that are real-time, two-way switched voice or data services that are interconnected with the public switched network, and to push-to-talk and text messaging service.¹⁴⁵ Recognizing wireless subscribers' increasing reliance on mobile telephony services, especially the growing demand of data services by consumers, the FNPRM seeks comment on whether the Commission should extend the applicability of the automatic roaming requirements to non-interconnected services or features, including services that have been classified as information services, such as wireless broadband Internet access service, or other non-CMRS services.

54. To the extent that addressing the issue raised in the FNPRM requires modifying the applicability of the automatic roaming rules, the Commission seeks comment on the effect that such rule changes will have on small entities, on whether alternative rules should be adopted for small entities in particular, and on what effect such alternative rules would have on those entities. The Commission invites comment on ways in which the Commission can achieve its goals while at the same time impose minimal burdens on small wireless service providers. Below, the Commission summarizes the issues raised in the FNPRM.

55. *Mobile Data Service Roaming.* The item seeks comment on whether the Commission should extend automatic

roaming obligations to non-interconnected services and features, including information services. To the extent that a covered carrier might be a small entity, the Commission believes that extending the scope of automatic roaming obligation would be a benefit rather than a burden.

56. *Technical Issues.* The item also seeks comment on whether there are any special technical issues (or otherwise) associated with roaming among data networks that may not exist when roaming among CMRS carriers' interconnected voice networks. In the FNPRM, the Commission noted that it would be concerned if requiring a carrier to offer roaming service on its data network to the customers of other carriers resulted in the carrier facing capacity constraints that adversely affect its own customers. The FNPRM, therefore, asks whether a carrier should have the right to limit access to its network by roamers, and what parameters should be considered as justification for such limits.

57. *Jurisdiction over Information Service.* In the Wireless Broadband Classification Order,¹⁴⁶ the Commission determined that mobile wireless broadband Internet access service is an information service, and that it is not CMRS. If the Commission were to impose an automatic roaming on mobile wireless broadband Internet access service as proposed in the FNPRM, the jurisdictional issue should be considered regarding how could we treat the information service for roaming purpose. For example, could the Commission base the requirement on Title I ancillary jurisdiction, or on the Title III regulation of radio services? Alternatively, the FNPRM seeks comment on whether the Commission should restrict the automatic roaming mandate only to non-interconnected data services that are not classified as information services.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

58. None.

Ordering Clauses

59. Accordingly, *it is ordered that*, pursuant to the authority contained in Sections 1, 4(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201, 202, 251(a), 253, 303(r), and 332(c)(1)(B), and Section 1.425 of the Commission's rules, 47 CFR 1.425, this Report and Order and FNPRM *is hereby adopted*.

60. *It is further ordered that* Sections 20.3 and 20.12 of the Commission's rules *are amended* as specified in Appendix A, and such rule amendments shall be effective 60 days after the date of publication of the text thereof in the **Federal Register**.

61. *It is further ordered that* the Joint Petition for Commission Inquiry Pursuant to Section 403 of the Communications Act filed by AIRPEAK Communications, LLC, Airtel Wireless LLC, Cleveland Unlimited, Inc., Leap Wireless International, Inc., MetroPCS Communications, Inc., Punxsutawney Communications, Rural Telecommunications Group, Inc., and Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, on April 25, 2006 *is hereby denied*.

62. *It is further ordered that* the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order and the FNPRM, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E7-17123 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

¹⁴⁵ See *supra* paras. 2, 65-67.

¹⁴⁶ See generally, Wireless Broadband Internet Access Declaratory Ruling. 22 FCC Rcd 5901.

Notices

Federal Register

Vol. 72, No. 168

Thursday, August 30, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974, System of Records

AGENCY: United States Agency for International Development.

ACTION: Notice to delete systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (U.S.C. 552a), as amended, the United States Agency for International Development (USAID) is deleting nine systems of records notices in its existing inventory.

DATES: This proposed action will be effective on October 1, 2007.

ADDRESSES: Comments may be submitted by any of the following methods:

eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions on submitting comments.

E-mail: privacy@usaid.gov

Fax: (703) 666-1466.

Mail: Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue, NW., Suite 2.12-003, Washington, DC 20523-2120.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara English, Office of Human Resources, Policy, Planning and Information Division either by e-mail at benglish@usaid.gov or by phone on (202) 712-1913.

SUPPLEMENTARY INFORMATION: USAID has reviewed its Privacy Act systems of records. As a result of this review, USAID is deleting nine systems of records notices in its existing inventory. All nine systems being deleted are covered under government-wide systems of records. The specific deletions are set forth below.

Dated: August 20, 2007.

Philip M. Heneghan,
Chief Privacy Officer, USAID.

SYSTEM NAME:

AID-1, Foreign Service Employee Personnel Records System.

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government-wide system of record.

SYSTEM NAME:

AID-2, Civil Service Employee Office Personnel Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government-wide system of record.

SYSTEM NAME:

AID-6, Recruiting, Examining, Placement and Employee Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-5 (Recruiting, Examining, Placement and Employee Records), a government-wide system of record.

SYSTEM NAME:

AID-7, Foreign Service Personnel Evaluation Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-2 (Employee Performance File System Records), a government-wide system of record.

SYSTEM NAME:

AID-11, Employee Conduct and Discipline Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-3 (Adverse Actions and Actions Based on Unacceptable Performance), a government-wide system of record.

SYSTEM NAME:

AID-12, Executive Assignment Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government-wide system of record.

SYSTEM NAME:

AID-13, Orientation and Training Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government-wide system of record.

SYSTEM NAME:

AID-14, Awards and Incentive Records.

Reason: The records contained in this system of records are covered by OPM/GOVT-2 (Employee Performance File System Records), a government-wide system of record.

SYSTEM NAME:

AID-24, Emergency Case File.

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government-wide system of record.

[FR Doc. E7-17180 Filed 8-29-07; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas National Forest, Feather River Ranger District, CA; Flea Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement to disclose the environmental effects resulting from construction of fuel breaks known as defensible fuel profile zones (DFPZs); harvest and reforestation of timber stands; restoration and enhancement of aquatic and riparian habitat; improvement of wildlife habitat and long term watershed condition; underburning to improve the health of unique plant communities; and road construction, reconstruction, and decommissioning.

DATES: Comments concerning the scope of the analysis must be received within 30 days of the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected by January 2008, and the final environmental impact statement is expected by April 2008.

ADDRESSES: Send written comments to Karen Hayden, District Ranger, Plumas National Forest, Feather River Ranger District, 875 Mitchell Ave, Oroville, CA 95965. Comments may be (1) Mailed to the Responsible Official; (2) hand-delivered between the hours of 8 a.m.-4:30 p.m., Monday through Friday, excluding holidays; (3) faxed to (530) 532-1210; or (4) electronically mailed

to: comments-pacificsouthwest-plumas-featherrvr@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: John Zarlengo, Project Leader, Feather River Ranger District, 875 Mitchell Avenue, Oroville, CA 95965, or call (530) 532-8932.

SUPPLEMENTARY INFORMATION: The Flea Project area is located within the Feather River Ranger District of the Plumas National Forest in Butte County. Encompassing approximately 11,000 acres, the project area is located north and east of Paradise, from De Sabla in the northwest to Jorbo Gap in the southeast, and north and west of Mayaro and North Fork of the Feather River in the northeast. Treatment units range in elevation from 1,600 to 4,300 feet above sea level. Communities in and near the project area include Paradise, Magalia, DeSabla, Yankee Hill, Concow, Pulga and Mayaro.

The Flea Project is proposed as part of a broad resource management program to promote the ecological health of lands and economic health and stability of communities in the northern Sierra Nevada under the authority of the Herger-Feinstein Quincy Library Group Forest Recovery Act (HFQLG Act).

Purpose and Need for Action

The Forest Service has identified the following project objectives: (1) Protect communities and forest ecosystems from high-intensity wildfires; (2) promote a healthy all-aged, multistoried, fire-resilient forest; (3) contribute to the stability and economic health of communities; (4) promote the health of unique plant communities; (5) promote healthy aquatic and riparian ecosystems, and improve long term watershed condition; and (6) improve wildlife habitat.

Proposed Action

To achieve project objectives, the Forest Service proposes to construct approximately 2,007 acres of fuelbreaks known as Defensible Fuel Profile Zones (DFPZ). A DFPZ is a strategically located strip of land approximately 1/2 mile in width on which fuels, both living and dead, have been modified in order to reduce the potential for sustained crown fire and to allow fire suppression personnel a safer location from which to take action against a wildfire. The DFPZs in the Flea Project would be part of a larger, strategic system of DFPZs on the Plumas National Forest, adjacent private lands, and other national forests.

Proposed DFPZs are generally located on ridges, along roads, or adjacent to

private property within wildland urban interface with tree crowns spaced at a distance that reduces the potential for crown fire spread (generally 40 percent canopy cover). DFPZs would be constructed through mechanically thinning and biomass removal on approximately 671 acres, mastication on approximately 456 acres, underburning on approximately 447 acres, and hand cutting, piling, and burning on approximately 433 acres.

The Forest Service proposes to harvest up to 5 million board feet of timber from group selection units (228 acres), and DFPZ mechanical thinning units (546 acres). Group selection involves harvest of trees less than 30-inches in diameter from small (0.5 to 2 acres) groups. Over time, this would create an uneven-aged (all-aged) forest made up of a mosaic of small groups of same-aged trees.

Use of existing and temporary roads would be needed to access group selection and DFPZ treatment areas. An estimated 13.4 miles of existing road would be reconstructed with 0.45 additional miles of new classified road construction and 4.5 miles of new temporary spur construction. An estimated 9.5 miles of system roads would be decommissioned or closed by various methods, such as ripping and seeding, re-contouring, and installing barriers. Future use of all other roads and user-developed OHV routes in the Flea Project area would be determined by the Plumas National Forest's travel management process. Improve the health of serpentine plant communities through the use of prescribed fire. Underburn approximately 100 acres included as DFPZ treatment.

Aquatic and riparian restoration projects include restoring and enhancing aquatic, native plant, and riparian habitat and improving long term watershed condition by decommissioning 9.5 miles of system roads, replacing or upgrading three culverts to restore aquatic species passage to approximately 5 miles of upstream habitat; and stabilizing stream channels and banks.

Habitat for northern goshawk would be improved by enhancing tree growth and health, and by creating a more desirable open understory on 84 acres included as DFPZ treatment.

Responsible Official

Karen L. Hayden, District Ranger, 875 Mitchell Ave., Oroville, CA 95965 is the Responsible Official. The Forest Service intends to use Stewardship contracting authority to apply the value from timber harvest to offset costs of fuel treatments.

Nature of Decision To Be Made

The Responsible Official will decide whether to implement this proposal, an alternative design that moves the project area towards the desired conditions, or not to implement any project at this time.

Scoping Process

Public questions and comments regarding this proposal are an integral part of this environmental analysis process. Comments will be used to identify issues and develop alternatives to the proposed action. To assist the Forest service in identifying and considering issues and concerns related to the proposed actions, comments should be as specific as possible.

Information about the proposed action will be mailed to the adjacent landowners, as well as to those people and organizations that have indicated a specific interest in the project, to Native American entities, and federal, state, and local agencies. The public will be notified of any meetings regarding this proposal by mailings and press releases sent to local newspapers and media. A community meeting in the project area is planned for January 2008, although specific information is not available at this time.

Preliminary Issues

The following preliminary issues have been identified for this proposal: (a) Impacts of ground disturbing activities on watershed condition, (b) impacts of activities on highly erodible soils, (c) economic feasibility of the project due to high treatment and regeneration costs, and (d) impacts of activities on habitat used by the California spotted owl and northern goshawk. Continued analysis will determine the relevance of these preliminary issues. Additional issues may be identified during the scoping process.

Permits or Licenses Required

No federal permits, licenses, or entitlements are necessary to implement the proposed project. State requirements, based on federal laws, and administered by the County Agricultural Commissioner for air quality management will be followed. These requirements include burning only on permissive burn days or receiving a special variance prior to ignition. Smoke permits are required from the Northern Sierra and Feather River Air Quality Management Districts (AQMD) prior to any understory or pile burning. Timber Harvest Activity Waivers are required from the California Regional Water Quality Control Board.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations that may be interested in, or affected by, the proposed vegetation management activities.

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 after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the

adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental 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.

Dated: August 21, 2007.

Karen L. Hayden,

District Ranger.

[FR Doc. 07-4253 Filed 8-29-07; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS**Agenda and Notice of Public Meeting of the Hawaii State Advisory Committee; Correction**

A correction is hereby made to the meeting notice of the Hawaii Advisory Committee that appeared in the second column, first paragraph, at line 8, on August 22, 2007, in Vol. 72 of the **Federal Register** at page 46953. The time for convening the meeting should be 10 a.m. No other corrections are made to that notice.

Dated at Washington, DC, August 27, 2007.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. E7-17224 Filed 8-29-07; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-533-820)

Certain Hot-Rolled Carbon Steel Flat Products From India: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Victoria Cho, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230; telephone: (202) 482-5075.

SUPPLEMENTARY INFORMATION:**Background**

On February 2, 2007, the U.S. Department of Commerce ("Department") published a notice of initiation of the administrative review of the antidumping duty order on hot-rolled carbon steel flat products from India, covering the period December 1, 2005 to November 30, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 5005 (February 2, 2007). The preliminary results of this review are currently due no later than September 2, 2007.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Section 751(a)(3)(A) of the Act further states that if it is not practicable to complete the review within the time period specified, the administering authority may extend the 245-day period to issue its preliminary results to up to 365 days.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable for the following reasons. This review covers four companies, and to conduct the sales and cost analyses for each company requires the Department to gather and analyze a significant amount of information pertaining to each company's sales practices, manufacturing costs and corporate relationships. Given the number and complexity of issues in this case, and in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the preliminary results of review by 108 days. Therefore, the preliminary results are now due no later than December 19, 2007. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: August 23, 2007.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E7-17225 Filed 8-29-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-580-816)

Corrosion-Resistant Carbon Steel Flat Products From Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: August 30, 2007.

FOR FURTHER INFORMATION CONTACT: Victoria Cho or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5075 and (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On March 27, 2007, the Department of Commerce (the Department) published a notice of initiation of a new shipper review of the antidumping duty order on corrosion-resistant carbon steel flat products from Korea covering the period August 1, 2006, through January 31, 2007. See *Corrosion-Resistant Carbon Steel Flat Products from Korea: Notice of Initiation of Antidumping Duty New Shipper Review for the period August 1, 2006, through January 31, 2007*, 72 FR 14260 (March 27, 2007). The preliminary results are currently due no later than September 17, 2007.

Extension of Time Limit of Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary results of a new shipper review within 180 days of the date it was initiated. However, if the Department concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days. Based on an allegation filed by the petitioner, we initiated a sales-below-cost investigation on July 6, 2007, and received the response to section D of the questionnaire on August 10, 2007. To allow sufficient time to analyze the sales and cost data and issue supplemental questionnaires, we must extend the time limit to complete the preliminary results of this review. Furthermore, the Department requires additional time to fully analyze the *bona fides* of Haewon's U.S. shipment, examine its sales processes, and analyze its cost

questionnaire responses. Given the complexity of this case, and in accordance with section 751(a)(2)(B)(iv) of the Act, we are extending the time limit for issuing the preliminary results of review until January 15, 2008, which is 300 days after the date of initiation of this review. The deadline for the final results of this review will continue to be 90 days after publication of the preliminary results.

This extension is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act and 19 CFR 351.214(l)(2).

Dated: August 23, 2007.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E7-17226 Filed 8-29-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of issuance of an amended Export Trade Certificate of Review to the American Sugar Alliance, Application No. 06-A0003.

SUMMARY: On August 24, 2007, The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to the American Sugar Alliance ("ASA").

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or e-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2005).

Export Trading Company Affairs ("ETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

The original ASA Certificate (Application No. 06-00003) was issued on March 16, 2007 (72 FR 14081, March 26, 2007).

ASA's Export Trade Certificate of Review has been amended to:

1. Add the following company as a new "Member" of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Americane Sugar Refining LLC, Taylor, MI.
2. Revise the "CPA Administration" and "Information Collection and Exchange" sections found within Export Trade Activities and Methods of Operation so that these sections read as follows:

CPA Administration

The ASA will allocate all CPAs at one time. ASA may reallocate CPAs if a new Producer becomes a Member. In the event that any CPAs are returned to ASA for any reason, ASA will reallocate those CPAs among interested Producers. The allocation, and any reallocations, will be completed before December 16, 2007.

Information Collection and Exchange

ASA may ask Producers individually for their production capacity figures for 2006 for the purposes of allocating the CPAs. Producers may supply that information to ASA, and ASA may allocate and reallocate CPAs to Producers based on this information.

The effective date of the amended certificate is May 29, 2007. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: August 24, 2007.

Jeffrey C. Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7-17152 Filed 8-29-07; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of revocation of Export Trade Certificate of Review Application No. 01-00004.

SUMMARY: The Secretary of Commerce issued an Export Trade Certificate of Review to International Trading Group, LLC on September 26, 2001. Because

this Certificate Holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to International Trading Group, LLC.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a Toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("The Act") (Pub. L. 97-290, 15 U.S.C. 4011-21) Authorizes the Secretary of Commerce to Issue Export Trade Certificates of Review. The Regulations Implementing Title III ("the Regulations") are found at 15 CFR Part 325 (1999). Pursuant to this Authority, a Certificate of Review was issued on September 26, 2001 to International Trading Group, LLC.

A Certificate Holder is required by law to submit to the Secretary of Commerce Annual Reports that update financial and other information relating to business activities covered by its Certificate (Section 308 of the Act, 15 U.S.C. 4018, Section 325.14(a) of the Regulations, 15 CFR 325.14(a)). The Annual Report is due within 45 days after the Anniversary Date of the Issuance of the Certificate of Review (Sections 325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete Annual Report may be the Basis for Revocation (Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c)). On September 16, 2006, the Secretary of Commerce sent to International Trading Group, LLC a letter containing Annual Report questions stating that its annual report was due on November 10, 2006. A reminder was sent on June 22, 2007, with a due date of July 23, 2007. The Secretary has received no written response from International Trading Group, LLC to any of these letters. On July 27, 2007, and in accordance with Section 325.10(c)(1) of the Regulations, (15 CFR 325.10(c)(1)), the Secretary of Commerce sent a letter by Certified Mail to notify International Trading Group, LLC that the Secretary was formally initiating the process to revoke its Certificate for failure to file an annual report. The Secretary has received no response from International Trading Group, LLC. Pursuant to Section 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Secretary considers the failure of International Trading Group, LLC to respond to be an admission of the statements contained in the notification letter. The Secretary has determined to revoke the Certificate

issued to International Trading Group, LLC for its failure to file an annual report. The Secretary has sent a letter, dated August 27, 2007 to notify the International Trading Group, LLC of its final determination.

The Revocation is effective thirty (30) days from the date of publication of this notice (325.10(c)(4) of the Regulations, 15 CFR 325.10(c)). Any person aggrieved by this decision may appeal to an appropriate U.S. District Court within 30 days from the date of publication of this notice in the **Federal Register** "(15 CFR 325.11 of the Regulations)."

Dated: August 24, 2007.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7-17185 Filed 8-29-07; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of solicitation for nominations for potential Sea Grant Review panelists.

SUMMARY: This notice responds to Section 209 of the Sea Grant Program Improvement Act of 1976 (Pub. L. 94-461, 33 U.S.C. 1128), which requires the Secretary of Commerce to solicit nominations at least once a year for membership on the Sea Grant Review Panel. This advisory committee provides advice on the implementation of the National Sea Grant College Program.

DATES: Resumes should be sent to the address specified and must be received by September 19, 2007.

ADDRESSES: Dr. Jim D. Murray; Designated Federal Official, Sea Grant Review Panel; Deputy Director, National Sea Grant College Program; 1315 East-West Highway, Room 11841; Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Jim D. Murray of the National Sea Grant College Program at the address given above; telephone (301) 734-1077 x1070 or fax number (301) 713-1031.

SUPPLEMENTARY INFORMATION: Section 209 of the Act establishes a Sea Grant Review Panel to advise the Secretary of Commerce, the Under Secretary for Oceans and Atmosphere, and the Director of the National Sea Grant

College Program on the implementation of the Sea Grant Program. The panel provides advice on such matters as:

(a) The Sea Grant Fellowship Program;

(b) Applications or proposals for, and performance under, grants and contracts awarded under the Sea Grant Program Improvement Act of 1976, as amended at 33 U.S.C. 1124;

(c) The designation and operation of sea grant colleges and sea grant institutes; and the operation of the sea grant program;

(d) The formulation and application of the planning guidelines and priorities under 33 U.S.C. 1123(a) and (c)(1); and

(e) Such other matters as the Secretary refers to the panel for review and advice.

The Panel is to consist of 15 voting members composed as follows: Not less than eight of the voting members of the panel should be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals who by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension service, state government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is (a) the director of a sea grant college, sea grant regional consortium, or sea grant program, (b) an applicant for or beneficiary (as determined by the Secretary) of any grant or contract under 33 U.S.C. 1124 or (c) a full-time officer or employee of the United States. The Director of the National Sea Grant College Program and one Director of a Sea Grant Program also serve as non-voting members. Panel members are appointed for a 4-year term.

Dated: August 23, 2007.

Mark E. Brown,

Chief Financial Officer/Chief Administrator Officer, Office of Oceanic and Atmospheric Research.

[FR Doc. E7-17193 Filed 8-29-07; 8:45 am]

BILLING CODE 3510-KA-P

DEPARTMENT OF DEFENSE**Office of the Secretary****Meeting of the Secretary of Defense's Defense Advisory Board for Employer Support of the Guard and Reserve (DAB-ESGR)****AGENCY:** Department of Defense.**ACTION:** Notice of open meeting.

SUMMARY: This notice announces a meeting of the DAB-ESGR. This meeting will focus on the status of DoD actions and recommendations from previous DAB meetings, relevant discussion on U.S. Government inter-agency Transition Assistance study and successful employer support programs in four States. This meeting is open to the public.

DATES: 0830–1230 hrs, 12 September 2007.

Location: Federal Room, Hotel Washington, 15th and Pennsylvania Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Interested attendees may contact MAJ Elaine M. Gullotta at 703–696–1385 ext. 540, or e-mail at elaine.gullotta@osd.mil.

Agenda

- 0830 Convene (Mr. Chris P.A. Komisarjevsky, Acting Chairman).
- 0835 Oath of Office (Mr. Frank Wilson, FACA CMO).
- 0840 Review of Last Meeting Minutes/ New Charter.
- 0850 Honorable Thomas F. Hall, Assistant Secretary of Defense Reserve Affairs.
- 0900 Mr. James G. Rebholz, National Chairman, ESGR.
Dr. L. Gordon Sumner, Jr., Ph.D., Executive Director, ESGR.
- 0930 Commission on the National Guard and Reserve Discussion, Thomas Eldridge, WSO–CNGR.
- 1030 State Perspectives: Joseph Thomas, Tennessee, State Chairman, ESGR; Barry Spear, Iowa, State Chairman, ESGR; Dennis Shulstad, Minnesota, State Chairman, ESGR; Ernest Loomis, New Hampshire, State Chairman, ESGR.
- 1130 Transition Assistance Update, James L. Scott II, Director, Individual and Family Policy OASD/RA (M&P).
- 1200 Board Discussion.
- 1230 Adjourn.

FOR FURTHER INFORMATION CONTACT: Major E. Gullotta, 703–696–1386 ext. 540.

Dated: August 24, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–4257 Filed 8–29–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE**Department of the Air Force****Federal Property Suitable for Exchange****AGENCY:** Department of the Air Force, Air Force Real Property Agency.**ACTION:** Notice.

Authority: Title 10, United States Code, Section 2869(d)(1).

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property under the administrative jurisdiction of the United States Air Force that the Air Force intends to exchange for property beneficial to the Air Force.

FOR FURTHER INFORMATION CONTACT:

Kelli Britt, Air Force Real Property Agency (AFRPA), 1700 N. Moore St., Suite 2300, Arlington, VA 22209–2802; telephone (703) 696–5514, (this telephone number is not toll-free).

SUPPLEMENTARY INFORMATION: In accordance with 10 U.S.C. 2869(d)(2), the Air Force is publishing this Notice to identify Federal real property that the Air Force has reviewed for suitability to dispose of in exchange for property beneficial to the Air Force. The property was screened within the Department of Defense (DoD) and no DoD agencies have expressed an interest in the property.

The Air Force reviewed the property: Charleston Air Force Base (AFB), South Carolina.

Property Number: 18200540004.

Status: Excess.

Comments: 5.348 acres of real property outside the clear zone.

And will exchange this property for: Property owned by South Carolina Electric and Gas.

Comments: 13.052 acres of real property within the Charleston AFB clear zone.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E7–17182 Filed 8–29–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE**Department of the Navy****Notice of Deadline for Submission of Donation Applications for the ex-TICONDEROGA (CG 47)****AGENCY:** Department of the Navy, DoD.**ACTION:** Notice.

SUMMARY: The Department of the Navy (DON) hereby gives notice of a requirement to submit donation applications to obtain the guided missile cruiser ex-TICONDEROGA (CG 47) for use as a static museum/memorial for public display under the authority of 10 U.S.C. 7306. The ex-TICONDEROGA was struck from the Naval Vessel Register on August 12, 2004 and is located at the NAVSEA Inactive Ships On-Site Maintenance Office, Philadelphia, PA. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any not-for-profit or non-profit entity.

The transfer of a vessel for donation under 10 U.S.C. 7306 shall be at no cost to the United States Government.

The donee will be required to maintain the vessel as a static display in a condition that is satisfactory to the Secretary of the Navy.

A letter of intent will be required within 45 days from the date of this notice and all donation applications must be received by January 31, 2008. The DON will foreclose consideration of donation of ex-TICONDEROGA to any entity that does not submit a letter of intent to the DON within 45 days of the date of this notice.

Prospective applicants must submit a letter of intent to the Navy Inactive Ships Program office within 45 days of this **Federal Register** notice. The letter of intent must:

- a. Identify the specific vessel sought for donation;
- b. Include a statement of the proposed use for the vessel;
- c. Identify the proposed berthing location;
- d. If the applicant is not a state, territory or possession of the United States, or a political subdivision or municipal corporation thereof, or the District of Columbia, provide a copy of a determination letter by the Internal Revenue Service that the applicant is exempt from tax under the Internal Revenue Code, or submit evidence that the applicant has filed the appropriate documentation in order to obtain tax exempt status;

e. If the applicant asserts that it is a corporation or association whose Charter and/or Articles of Incorporation denies it the right to operate for profit, provide a properly authenticated copy of the Charter, Articles of Incorporation, and a copy of the organization's By-laws;

f. Provide a notarized copy of the resolution or other action of the applicant's governing board authorizing the person signing the application to represent the organization and to sign on its behalf for the purpose of obtaining a vessel; and

g. Provide written affirmation that the prospective applicant can submit a complete ship donation application to the DON, compliant with the DON's application requirements, by January 31, 2008.

Upon receipt of the letter of intent, the DON will contact the prospective applicant(s) to ensure a full understanding of the application requirements, which will be available early September 2007, on the DON Ship Donation Web site located at: <http://peoships.crane.navy.mil/donation/>. This information was previously available for several years at <http://navsea.navy.mil/NDP> and is being transitioned to a new server.

Qualified organizations who submit a letter of intent for the ex-TICONDEROGA (CG 47) must submit a complete application to the DON by January 31, 2008, comprised of a Business/Financial Plan, Mooring Plan, Towing Plan, Maintenance Plan, Environmental Plan, Curatorial/Museum Plan, and a Community Support Plan. These plans must include the following information:

1. Business/Financial Plan: The Business/Financial Plan must detail the estimated start-up and operating costs, and provide detailed evidence of firm financing adequate to cover these costs. Start-up costs include towing, mooring (this includes but not limited to the cost of acquiring and improving facilities, and dredging if required), vessel restoration, museum development, and meeting environmental requirements (including permitting fees and expenses) etc. Operating costs are those costs associated with operating and maintaining the vessel as a museum/memorial, including rent, utilities, personnel, insurance, periodic dry-docking, etc. Firm financing means available funding to ensure the first five years of operation and future stability for long-term operation. This can include pledges, loans, gifts, bonds (except revenue bonds), funds on deposit at a financial institution, or any combination of the above. The applicant

must also provide income projections from sources such as individual and group admissions, facility rental fees and gift shop revenues sufficient to cover the estimated operating expenses.

2. Mooring Plan: The Mooring Plan describes how the vessel will be secured at its permanent display site during normal and extreme weather conditions (including the 100-year storm event) to prevent damage to the vessel, its mooring system, the pier, and surrounding facilities. Provide evidence of availability of a facility for permanent mooring of the vessel, either by ownership, existing lease, or by letter from the facility owners indicating a statement of intent to utilize such facilities. Address any requirement to obtain site-specific permits and/or municipality approvals required for the facility, to include but not limited to, Port Authority and Army Corps of Engineers approvals/permits, where required. The mooring location must be acceptable to the DON and not obstruct or interfere with navigation.

3. Towing Plan: The Towing Plan describes how the vessel will be prepared for tow and safely towed from its present location to the permanent display site proposed by the applicant. The Towing Plan must comply with all U.S. Navy Tow Manual requirements, which can be found at <http://www.supsalv.org/pdf/towman.pdf>.

4. Environmental Plan: The Environmental Plan describes how the applicant will comply with all Federal, State and local environmental and public health & safety regulations and permit requirements. The applicant must describe how it will address the possibility of invasive species on the underwater hull and measures to protect the marine environment of the proposed berthing location from invasive species. The applicant also should provide information necessary for the DON to complete an environmental assessment of the donation as required by the National Environmental Policy Act, including the impact of the donation on the natural and man-made environment, local infrastructure, and evaluation of the socio-economic consequences of the donation.

5. Maintenance Plan: The Maintenance Plan must describe plans for long-term and short-term maintenance of the vessel, including preservation and maintenance schedule, underwater hull inspections, emergency response and fire/flood/intrusion control, pest control, security, periodic dry-docking, and qualifications of the maintenance team.

6. Curatorial/Museum Plan: The Curatorial/Museum Plan includes three

parts: Staff qualifications, a Collection Management Plan and Historical Management Plan. The Curatorial/Museum Plan must describe the qualifications and responsibilities for a professional curator and supporting staff. The Collection Management Plan must define the museum's scope of artifact collection, and the collection management activity (documentation, accession and deaccession policies, risk management and insurance, collections care and control, loans, etc.). The Historical Management Plan must provide a description of the historical context in which the vessel will be displayed. The plan should also describe proposed exhibits, as well as vessel restoration plans. The applicant must conform to standard ethical codes of conduct for museum organizations.

7. The Community Support Plan must include evidence of local support. Evidence of regional support should also be provided. This includes letters of endorsement from adjacent communities and counties, cities and/or States. Also describe how the location of the vessel will encourage public visitation and tourism, become an integral part of the community, and how the vessel will enhance community development. The Community Support Plan must also describe the benefit to the DON, including, but not limited to, addressing how the prospective donee may support DON recruiting efforts, the connection between the DON and the proposed berthing location, how veterans associations in the area are willing to support the vessel, how the prospective donee will honor veterans' contributions to the United States, and how the exhibit will commemorate those contributions and showcase naval traditions.

The relative importance of each area that must be addressed in the donation application is as follows: Business/Financial Plan and Mooring Plan are the most important criteria and are equal in importance. The Towing Plan, Maintenance Plan and Environmental Plan are individually of equal importance but of lesser importance than the Business/Financial and Mooring Plans. The Curatorial/Museum Plan and Community Support Plan are of equal importance, but of lesser importance than the aforementioned plans.

Evaluation of the application(s) will be performed by the DON to ensure the application(s) are compliant with the minimum acceptable application criterion and requirements. In the event of multiple compliant applications for the same vessel, the DON will perform a comparative evaluation of the

applications to determine the best-qualified applicant. The adjectival ratings to be used for each criterion include: Outstanding, Good, Satisfactory, Marginal, and Unsatisfactory. The Secretary of the Navy, or his designee, will make the final donation decision.

Additional information concerning the application process and requirements will be available early September 2007, on the DON Ship Donation Web site located at <http://peoships.crane.navy.mil/donation/>. This information was previously available for several years at <http://navsea.navy.mil/NDP> and is being transitioned to a new server.

The complete application must be submitted in hard copy and electronically on a CD to the Navy Inactive Ships Program Office by January 31, 2008. In the absence of a viable donation application, the DON reserves the right to remove ex-TICONDEROGA from donation consideration and proceed with disposal of the vessel.

For Further Information and Submission of Ship Donation Applications, Contact: Ms. Gloria Carvalho of the Naval Sea Systems Command, Navy Inactive Ships Program (PMS 333), telephone number 202-781-0485. Mailed correspondence should be addressed to: The Columbia Group, 1201 M Street, SE., Suite 010, Washington, DC 20003; marked for Ms. Gloria Carvalho (PMS 333).

Dated: August 23, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7-17209 Filed 8-29-07; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 29, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early

opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 23, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of the Chief Financial Officer

Type of Review: Extension.

Title: GEPA Section 427 Guidance for All Grant Applications.

Frequency: One time.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 21,922.

Burden Hours: 32,883.

Abstract: On October 20, 1994, the Improving America's Schools Act, Public Law 103-382, became law. The Act added a provision to the General Education Provisions Act (GEPA). Section 427 of GEPA requires an applicant for assistance under Department programs to develop and

describe in the grant application the steps it proposes to take to ensure equitable access to, and equitable participation in, its proposed project for students, teachers, and other program beneficiaries with special needs. The current GEPA Section 427 guidance for discretionary grant applications and formula grant applications has approval through November 30, 2007. We are requesting an extension of this approval.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3421. 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. E7-17201 Filed 8-29-07; 8:45 am]

BILLING CODE 4000-01-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 1, 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: August 23, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: EZ-Audit: Electronic Submission of Financial Statements and Compliance Audits.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 5,900.

Burden Hours: 2,500.

Abstract: eZ-Audit is a Web-based process designed to facilitate the submission of compliance and financial statement audits, expedite the review of those audits by the Department, and provide more timely and useful information to public, non-profit and proprietary institutions regarding the Department's review. eZ-Audit establishes a uniform process under which all institutions submit directly to

the Department any audit required under Title IV, HEA program regulations. eZ-Audit is reducing the number of financial template line items and general information questions which results in a significant reduction of burden hours. All institutions' burden hours have been reduced by over fifty percent (50%).

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 3332. 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. E7-17202 Filed 8-29-07; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meeting Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of Public Meeting and Hearing (Amended Agenda).

DATE AND TIME: Thursday, September 6, 2007, 10 a.m.-5 p.m.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 150, Washington, DC 20005. (Metro Stop: Metro Center).

AGENDA: The Commission will consider the following topics: Commissioners will discuss EAC's regulatory authority under the National Voter Registration Act (NVRA) and consider approving a process for adopting NVRA regulations; The Commission will consider adopting a revised advisory on Maintenance of Effort (MOE) requirements regarding HAVA compliance; Commissioners will discuss EAC's regulatory and administrative responsibilities and discuss other administrative matters.

EAC will provide a public comment period to receive comments regarding

the commission's regulatory authority under the NVRA. Members of the public who wish to speak must contact and register with EAC by 5 p.m. on Tuesday, September 4, 2007. Speakers may contact EAC via e-mail at testimony@eac.gov, or via mail addressed to the U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 1100, Washington, DC 20005, or by fax at 202/566-3127. Comments will be strictly limited to 4 minute per person or organization to ensure the fullest participation possible. All speakers will be contacted prior to the hearing. EAC also encourages members of the public to submit written testimony via e-mail, mail or fax. All public comments will be taken in writing via e-mail at testimony@eac.gov, or via mail addressed to the U.S. Election Assistance Commission 1225 New York Ave, NW., Suite 1100, Washington, DC 20005, or by fax at 202/566-3127.

This Meeting and Hearing Will Be Open to the Public.

PERSON TO CONTACT FOR FURTHER INFORMATION: Bryan Whitener, Telephone: (202) 566-3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07-4296 Filed 8-28-07; 3:24 pm]

BILLING CODE 6820-KF-M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, September 18, 2007, 8 a.m.-5 p.m.

Opportunities for public participation will be held from 1 to 1:15 p.m. and 3:30 to 3:45 p.m.

These times are subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Snow King Resort, 400 East Snow King Avenue, Jackson, Wyoming 83001.

FOR FURTHER INFORMATION CONTACT:

Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS-1203, Idaho Falls, ID 83415. Phone (208) 526-6518; Fax (208) 526-8789 or e-mail: pencerl@id.doe.gov or visit the Board's Internet home page at: <http://www.inlemcab.org>.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Progress to Cleanup.
- Remote Handle Waste Facility Construction Project Update.
- Operational Unit 10-04, 10-08, 1-07B, and V9 Tank Closure Update.
- Discuss Greater-Than-Class C Low-Level Radioactive Waste Comments and Recommendations.
- Waste Isolation Pilot Project Briefing.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site <http://www.inlemcab.org/meetings.html>.

Issued at Washington, DC, on August 27, 2007.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E7-17186 Filed 8-29-07; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Environmental Management Site-Specific Advisory Board Chairs Meeting**

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 26, 2007 2 p.m.-4:30 p.m.; Thursday, September 27, 2007 8:30 a.m.-4:30 p.m.

ADDRESSES: Drury Inn, 3975 Hinkleville Road, Paducah, KY 42001, (270) 443-3313.

FOR FURTHER INFORMATION CONTACT: E. Douglas Frost, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5619.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the EM SSAB is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Wednesday, September 26, 2007

2 p.m. Workshop on Communication, Cooperation and Public Participation.

4 p.m. Public Comment Period.

Thursday, September 27, 2007

8:30 a.m. Welcome/Introductions.

9 a.m. Round Robin: Top Three Issues.

10 a.m. Break.

10:15 a.m. EM Presentation: Assistant Secretary James A. Rispoli.

11:30 a.m. DOE-HQ "News and Views".

12 p.m. Lunch.

1 p.m. Input to the EM Budget Process.

2:15 p.m. Break.

2:30 p.m. Discussion of Waste Disposition and Pre-1970 TRU.

3:30 p.m. EM SSAB Product Development Discussion.

4:15 p.m. Public Comment.

4:30 p.m. Wrap-Up/Adjourn.

Public Participation: The meeting is open to the public. Written statements may be filed either before or after the meeting with the Designate Federal Officer, E. Douglas Frost, at the address above or by phone at (202) 586-5619. Individuals who wish to make oral statements pertaining to agenda items should also contact E. Douglas Frost.

Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available by calling E. Douglas Frost at (202) 586-5619 and will be posted at <http://web.em.doe.gov/public/ssab/chairs.html>.

Issued at Washington, DC, on August 23, 2007.

Rachel M. Samuel,

Deputy Committee Management Officer.

[FR Doc. E7-17187 Filed 8-29-07; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8462-5]

Science Advisory Board Staff Office; Notification of a Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the chartered SAB to: (1) Discuss strategic research directions for the U.S. Environmental Protection Agency; (2) complete its discussions of science use in disaster response programs; (3) conduct a quality review of the draft SAB report **ADVISORY ON FACTORS INFLUENCING HYPOXIA IN THE GULF OF MEXICO**; and (4) conduct a quality review of the draft SAB report *Review of EPA's Draft Evaluation of the Carcinogenicity of Ethylene Oxide: A Report of the U.S. EPA Science Advisory Board*.

DATES: The meeting dates are Wednesday, October 3, 2007, from 8:30 a.m. to 5:30 p.m. through Friday, October 5, 2007, from 8:30 a.m. to not later than 2 p.m. (Eastern Time).

Location: The meeting will be held in Research Triangle Park, NC. The location will be announced on the SAB Web site as soon as possible.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain additional information about this meeting may contact Dr. Angela Nugent by mail address given below; by telephone at (202) 343-9981; by fax at (202) 233-0643; or e-mail at:

nugent.angela@epa.gov or by contacting Mr. Thomas O. Miller, Designated Federal Officer (DFO), by mail at the address given below; by telephone at (202) 343-9982; by fax at: (202) 233-0643; or e-mail at: miller.tom@epa.gov. The SAB mailing address is: U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at: <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: (a) SAB Quality Review of the Draft Committee Report *Factors Influencing Hypoxia in the Gulf of Mexico*. The Chartered Science Advisory Board will conduct a quality review of the draft report of its Hypoxia Advisory Panel at its meeting on October 3-5, 2007. Specific times will be provided in the meeting agenda that will be placed on the SAB Web site prior to the meeting (<http://www.epa.gov/sab>). EPA's Office of Water requested that the SAB develop a report that evaluates the state-of-the-science regarding the causes and extent of hypoxia in the Gulf of Mexico, as well as the scientific basis of possible management options in the Mississippi River Basin. In response to EPA's request, the SAB Staff Office formed the SAB Hypoxia Advisory Panel. That Panel held several meetings to discuss the issue and has now completed its draft report to the EPA Administrator. **Federal Register** notices were published announcing each of the Hypoxia Advisory Panel meetings (see 71 FR 8578-8580; 71 FR 45543-45544; 71 FR 66329-66330; 71 FR 55786-55787; 71 FR 59107 and 71 FR 77743-77744). Background on the Panel and this review is available on the SAB Web site at: http://www.epa.gov/sab/panels/hypoxia_adv_panel.htm.

(b) **EPA Strategic Research Directions:** The Agency has asked the Science Advisory Board for advice on the strategic directions for its research program for the next five to fifteen

years. This activity complements the annual SAB review of EPA's research budget, and permits a more critical evaluation of research programs than is possible during the research budget review. It will also give EPA additional time to incorporate SAB advice into the longer term research planning process that informs each year's budget preparation activity. The Agency charge asks for advice on the alignment of EPA research and development program directions with the strategic priorities identified by EPA's operating programs and Regional Offices; coordination of research planning within ORD and across EPA; coordination of research planning with environmental science programs of other government agencies; and whether EPA research is positioned to provide critical scientific support to EPA and the nation on emerging issues. The SAB will discuss EPA research program directions with EPA representatives on October 4 and 5, 2007. Specific information on the structure and schedule for these discussions will be provided by the meeting agenda that will be available on the SAB Web site prior to the meeting (<http://www.epa.gov/sab>).

(c) **Science in Emergency Response.** The SAB is exploring the use of science in preparing for and responding to environmental disasters. The SAB held a meeting on this topic on December 12-14, 2006 during which non-EPA experts discussed their experiences with disaster preparedness and response (71 FR 67566). The SAB continued its discussions of science in emergency response during its June 19-20, 2007 meeting (see 72 FR 27308). The SAB is currently drafting advisory comments to the Administrator as a result of these discussions. Final discussions of those comments will be held during the SAB meeting on October 3-5, 2007. Specific times will be provided in the meeting agenda that will be placed on the SAB Web site prior to the meeting (<http://www.epa.gov/sab>). Additional information is available on the SAB Web Site for the December 2006 meeting at: <http://www.epa.gov/sab/agendas.htm>, and for the June 19-20, 2007 SAB meeting at: http://www.epa.gov/sab/07agendas/sab_06_19-20_07_agenda.pdf.

(d) **SAB Quality Review of Review of EPA's Draft Evaluation of the Carcinogenicity of Ethylene Oxide: A Report of the U.S. EPA Science Advisory Board.** The Chartered Science Advisory Board will conduct a quality review of the draft report of its Ethylene Oxide Review Panel on October 3-5, 2007. Specific times will be provided in the meeting agenda that will be placed on

the SAB Web Site prior to the meeting (<http://www.epa.gov/sab>). EPA's Office of Research and Development (ORD) requested that the SAB review its draft document entitled *Evaluation of the Carcinogenicity of Ethylene Oxide* that was prepared by the National Center for Environmental Assessment (NCEA). In response to EPA's request, the SAB Staff Office formed the SAB Ethylene Oxide Review Panel. That Panel held several meetings to discuss the issue and has now completed its draft report to the EPA Administrator. **Federal Register** notices were published announcing each of the Ethylene Oxide Review Panel's meetings (see 71 FR 10500, 71 FR 66328, 72 FR 20538). Background on the Panel and this review is available on the SAB Web Site at: http://www.epa.gov/sab/panels/ethylene_oxide_rev_panel.htm.

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web Site at <http://www.epa.gov/sab> in advance of this meeting.

Procedures for Providing Public Input:

Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than one hour for all speakers.

Interested parties should contact Dr. Angela Nugent by mail at the EPA SAB Staff Office, (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343-9981; by fax at (202) 233-0643; or by e-mail at: nugent.angela@epa.gov. Mr. Thomas Miller, DFO, at the contact information provided above, by September 21, 2007, to be placed on the public speaker list for the October 3-5, 2007 meeting. A telephone conference line will be available for those portions of the meeting during which the SAB is conducting quality reviews of draft committee reports. Information on the call in procedures and numbers can be obtained by calling the EPA SAB Staff Office at (202) 343-9999. **Written Statements:** Written statements should be received in the SAB Staff Office by September 27, 2007, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied in the following formats: one hard copy with original signature, and one electronic copy via e-mail to: nugent.angela@epa.gov and miller.tom@epa.gov (acceptable file format: Adobe Acrobat PDF,

WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact Mr. Thomas Miller at (202) 343-9982, or e-mail at miller.tom@epa.gov. To request accommodation of a disability, please contact Mr. Miller, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 24, 2007.

Anthony Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7-17197 Filed 8-29-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8462-4; Docket ID No. EPA-HQ-ORD-2005-0029]

Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period on draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the public comment period for the draft document titled, “Integrated Science Assessment for Oxides of Nitrogen—Health Criteria; First External Review Draft” (EPA/600/R-07/099). The draft document was prepared by the National Center for Environmental Assessment within EPA’s Office of Research and Development as part of the Agency’s review of the air quality criteria for oxides of nitrogen and the primary (health-based) national ambient air quality standards (NAAQS) for nitrogen dioxide (NO₂).

EPA is releasing this draft document solely for the purpose of seeking comment from the public and the Clean Air Scientific Advisory Committee (CASAC). It does not represent and should not be construed to represent any Agency policy, viewpoint, or determination. EPA will consider any public comments submitted in accordance with this notice when revising the document.

DATES: The public comment period begins on or about August 31, 2007. Comments must be received on or before October 31, 2007.

ADDRESSES: The draft “Integrated Science Assessment for Oxides of Nitrogen; First External Review Draft” will be available primarily via the Internet on the National Center for Environmental Assessment’s home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>. A limited number of CD-ROM or paper copies will be available. Contact Ms. Emily Lee by phone 919-541-4169, fax 919-541-1818, or e-mail (lee.emily@epa.gov) to request either of these, and please provide your name, your mailing address, and the draft document title, “Integrated Science Assessment for Oxides of Nitrogen; First External Review Draft” (EPA/600/R-07/099) to facilitate processing of your request. Comments may be submitted electronically via www.regulations.gov, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. Emily Lee, NCEA; telephone: 919-541-4169, facsimile: 919-541-1818, or e-mail: lee.emily@epa.gov. For technical information, contact Dennis Kotchmar, Ph.D., NCEA; telephone: 919-541-4158; facsimile: 919-541-1818; or e-mail: kotchmar.dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Section 108(a) of the Clean Air Act directs the Administrator to identify certain pollutants which “may reasonably be anticipated to endanger public health and welfare” and to issue air quality criteria for them. These air quality criteria are to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air, * * *.” Under section 109 of the Act, EPA is then to establish national ambient air quality standards (NAAQS) for each pollutant for which EPA has issued criteria. Section 109(d) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health and welfare. EPA is also to revise the NAAQS, if appropriate, based on the revised air quality criteria.

Oxides of nitrogen are one of six principal (or “criteria”) pollutants for which EPA has established air quality criteria and NAAQS. EPA periodically

reviews the scientific basis for these standards by preparing an Integrated Science Assessment (ISA) (formerly called an Air Quality Criteria Document). The ISA and supplementary annexes, in conjunction with additional technical and policy assessments, provide the scientific basis for EPA decisions on the adequacy of a current NAAQS and the appropriateness of new or revised standards. The Clean Air Scientific Advisory Committee (CASAC), an independent science advisory committee established pursuant to section 109 of the Clean Air Act and part of the EPA’s Science Advisory Board (SAB), provides independent scientific advice on NAAQS matters, including advice on EPA’s draft ISAs.

On December 9, 2005 (70 FR 236), EPA formally initiated its current review of the criteria for oxides of nitrogen, requesting the submission of recent scientific information on specified topics. A draft of EPA’s “Integrated Plan for Review of the Primary National Ambient Air Quality Standard” was made available in February 2007 for public comment and was discussed by the Clean Air Science Advisory Committee (CASAC) via a publicly accessible teleconference consultation on May 11, 2007 (72 FR 20336). The Plan is being finalized and will be made available on EPA’s Web site (http://www.epa.gov/ttn/naags/standards/nox/s_nox_cr_pd.html). In February 2007 (72 FR 6238), a workshop was held to discuss, with invited scientific experts, initial draft materials prepared in the development of the ISA and supplementary annexes for oxides of nitrogen.

The draft “Integrated Science Assessment for Oxides of Nitrogen; First External Review Draft” will be discussed by CASAC at a future public meeting; public comments that have been received prior to the public meeting will be provided to the CASAC review panel. A future **Federal Register** notice will inform the public of the exact date and time of that CASAC meeting.

II. How To Submit Information to the Docket

Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2007-0029 by one of the following methods:

- www.regulations.gov: Follow the online instructions for submitting comments.
- E-mail: ORD.Docket@epa.gov.
- Fax: 202-566-1753.
- Mail: Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202-566-1752.

• **Hand Delivery:** The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD-2007-0029. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at www.regulations.gov, including any personal information provided, unless a comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through 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, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: August 23, 2007.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E7-17198 Filed 8-29-07; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 23, 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 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 October 29,

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 Number: 3060-1050.

Title: New Allocation for Amateur Radio Service, § 97.303(s).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; and Individuals or household.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time per Response: 20 minutes (0.3 hours).

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1,500 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No, the FCC will conduct a Privacy Impact Assessment when it revises the information system(s) covered by FCC/WTB-1, "Wireless Services Licensing Records," System of Records Notice.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: On April 29, 2003, the Office of Engineering and Technology adopted a Report and Order in *Amendment of Parts 2 and 97 of the Commission's Rules to Create a Low Frequency Allocation for the Amateur Radio Service*, in ET Docket No. 02-98, FCC 03-105. An amateur operator holding a General, Advanced or Amateur Extra Class license may only operate on the channels 5332 kHz, 5348 kHz, 5368 kHz, 5373 kHz, and 5404 kHz, under the following limitations: (1) A maximum effective radiated power (e.r.p.) of 50 W; and (2) single sideband suppressed carrier modulation (emission designator 2K8J3E), upper sideband voice transmissions only. For the purpose of computing e.r.p. the

transmitter PEP will be multiplied with the antenna gain relative to a dipole or the equivalent calculation in decibels. Licensees using other antennas must maintain in their station records on either manufacturer data on the antenna gain or calculations of the antenna gain. Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E7-17119 Filed 8-29-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

[Docket No. 07-09]

Jamteck International Shipping Inc., and Angella Barnett-Walker—Possible Violations of the Commission's Regulations at 46 CFR Part 515; Order of Investigation and Hearing

Jamteck International Shipping Inc. ("Jamteck") was incorporated in the State of New York on June 24, 2005, and is presently located at 4633 Richardson Avenue in Bronx, New York 10470. Since February 26, 2007, Jamteck has operated as an ocean transportation intermediary ("OTI") pursuant to FMC License No. 020155N. According to a review of records maintained by the Commission's Bureau of Certification and Licensing ("BCL"), the principals of the firm are identified as Angella Barnett-Walker, its President and Qualifying Individual, and Donald Barnett, its Vice President.

Jamteck filed its Form FMC-18 with the Commission on March 27, 2006. In response to questions on the application regarding her employment history as Qualifying Individual, Ms. Barnett-Walker claimed to have worked for two employers over a period of four (4) years from 2000 through 2004.

It has come to the attention of the Commission that Ms. Barnett-Walker appears to have misrepresented her OTI experience on Jamteck's license application. Information provided by representatives of both employers indicates that Ms. Barnett-Walker does not have three (3) years of OTI experience as required by the Commission's regulations at 46 CFR 515.11(a). In addition to a lack of the requisite OTI experience of three (3) years, it appears that, in applying for its OTI license, Jamteck and Ms. Barnett-Walker made materially false or misleading statements to the Commission with regard to Ms. Barnett-Walker's previous OTI experience and subsequently failed to correct such omissions.

Section 19 of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. 40901(a), provides that any person in the United States acting as an OTI¹ must hold a license issued by the Commission. The Commission's regulations at 46 CFR 515.11(a) state that, to be eligible for a license, an applicant must demonstrate that "[i]t possesses the necessary experience, that is, its qualifying individual has a minimum of three (3) years experience in ocean transportation intermediary activities in the United States, and the necessary character to render ocean transportation intermediary services."

Section 19(c) of the 1984 Act, 46 U.S.C. 40903, further provides that the Commission:

shall, after notice and hearing, suspend or revoke a license if it finds that the ocean transportation intermediary is not qualified to render intermediary services or that it willfully failed to comply with a provision of this Act or with a lawful order, rule, or regulation of the Commission.

The Commission's implementing regulations at 46 CFR Part 515 provide that a license may be revoked or suspended for any of the following reasons:

(1) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;

(2) Failure to respond to any lawful order or inquiry by the Commission;

(3) Making a materially false or misleading statement to the Commission in connection with an application for a license or an amendment to an existing licensed;

(4) Where the Commission determines that the licensee is not qualified to render intermediary services; or

(5) Failure to honor the licensee's financial obligations to the Commission.

46 CFR 515.16(a). These latter regulatory provisions largely iterate the obligation imposed by the statute that each applicant for a license must initially be qualified by "experience and character" in order to act as an ocean transportation intermediary, and must continuously maintain such qualifications of integrity, good character, technical OTI expertise and financial responsibility thereafter as a condition of license retention.

Now therefore, it is ordered, that pursuant to sections 11 and 19 of the 1984 Act, 46 U.S.C. 41301(a)–41307 and 40901(a), an investigation is instituted to determine:

(1) Whether Jamteck International Shipping Inc. and Angella Barnett-

Walker violated the Commission's regulations at 46 CFR Part 515 by submitting materially false or misleading information to the Commission on the OTI license application of Jamteck International Shipping Inc., and whether such licensee is qualified to render licensed OTI services;

(2) whether the Ocean Transportation Intermediary license, No. 020155N, of Jamteck International Shipping Inc. should be suspended or revoked pursuant to section 19 of the 1984 Act; and

(3) whether, in the event violations are found, appropriate cease and desist orders should be issued against Jamteck International Shipping Inc. and Angella Barnett-Walker.

It is further ordered, that a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that Jamteck International Shipping Inc. and Angella Barnett-Walker are designated as Respondents in this proceeding;

It is further ordered, that the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served on the parties of record;

It is further ordered, that other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, that all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the

¹ According to section 3(17) of the 1984 Act, 46 U.S.C. 40102, an ocean transportation intermediary is defined as either a freight forwarder or a non-vessel-operating common carrier.

time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, that in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by August 25, 2008, and the final decision of the Commission shall be issued by December 22, 2008.

By the Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7-17147 Filed 8-29-07; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 2007.

A. Federal Reserve Bank of St. Louis
(Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Cross Family Control Group, Eureka Springs, Arkansas, the control group consists of John Fuller Cross, Jr., Charles Taff Cross, Marie Johnice Cross, and Bobbie Sue Cross Foster all of Eureka Springs Arkansas.* to acquire Eureka Bancshares, Inc., Eureka Springs, Arkansas, and thereby indirectly acquire voting shares of Bank of Eureka Springs, Eureka Springs, Arkansas.

Board of Governors of the Federal Reserve System, August 24, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-17141 Filed 8-29-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 14, 2007.

A. Federal Reserve Bank of Atlanta
(David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. *Leandre Joseph Folse; Bonnie Jane Folse; Mark Phillip Folse; Carrie Jane Folse; Todd John Folse; and the L.J. Folse Family Voting Trust, Leandre Joseph Folse, Bonnie Jane Folse, and Mark Phillip Folse, trustees,* all of Houma, Louisiana; to collectively acquire voting shares of Coastal Commerce Bancshares, and thereby indirectly acquire voting shares of Coastal Commerce Bank, both of Houma, Louisiana.

B. Federal Reserve Bank of Dallas
(W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Asbury Trust No. 1-S; Asbury Trust No. 2-B; Asbury Trust No. 3-A; Asbury Trust No. 4-T; W. Andrew Sandford, as trustee; and Blake and Carole Sandford,* together, acting in concert; to acquire additional voting shares of Chisholm Bancshares, Inc., and thereby indirectly acquire additional voting shares of North Texas Bank, N.A., all of Decatur, Texas.

Board of Governors of the Federal Reserve System, August 27, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-17190 Filed 8-29-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The 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 September 24, 2007.

A. Federal Reserve Bank of St. Louis
(Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *First Banks, Inc., Hazelwood, Missouri and The San Francisco Company, Clayton, Missouri;* to acquire 100 percent of Coast Financial Holding, Inc., Bradenton, Florida, and thereby indirectly acquire Coast Bank of Florida, Bradenton, Florida. In addition, First Banks, Inc. and The San Francisco Company, Clayton, Missouri, also have applied to acquire up to 19.9 percent of

Coast Financial Holding Inc. In certain circumstances.

Board of Governors of the Federal Reserve System, August 24, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-17142 Filed 8-29-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The 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 September 25, 2007.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. *Harleysville National Corporation*, Harleysville, Pennsylvania; to retain 19.9 percent of the voting shares of Berkshire Bancorp, Inc., and thereby indirectly retain voting shares of Berkshire Bank, both of Wyomissing, Pennsylvania.

B. Federal Reserve Bank of Cleveland (Douglas A. Banks, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *PNC Financial Services Group, Inc.*, Pittsburgh, Pennsylvania; to merge with Yardville National Bancorp, Hamilton, New Jersey, and thereby indirectly acquire 100 percent of Yardville National Bank, Yardville, New Jersey, and 19.9 percent of the voting shares of Bucks County Bank, Doylestown, Pennsylvania.

Board of Governors of the Federal Reserve System, August 27, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-17191 Filed 8-29-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E7-16882) published on page 49009 of the issue for Monday, August 27, 2007.

Under the Federal Reserve Bank of Richmond heading, the entry for Virginia Community Capital, Inc., Christiansburg, Virginia, is revised to read as follows:

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Virginia Community Capital, Inc.*, which is currently operating as a Community Development Financial Institution; to become a bank holding company by acquiring 100 percent of the voting shares of Community Capital Bank of Virginia, both of Christiansburg, Virginia.

In connection with this application, Applicant also has applied to continue to engage in lending and community development activities, pursuant to sections 225.28(b)(1), (b)(12)(i), and (b)(12)(ii) of Regulation Y.

Comments on this application must be received by September 21, 2007.

Board of Governors of the Federal Reserve System, August 27, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-17192 Filed 8-29-07; 8:45 am]

BILLING CODE 6210-01-S

GENERAL SERVICES ADMINISTRATION

Office of Small Business Utilization; Small Business Advisory Committee

Renewal of the Small Business Advisory Committee

AGENCY: Office of Small Business Utilization, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.65, the U.S. General Services Administration gives notice that it intends to renew the Small Business Advisory Committee (SBAC), as a discretionary Federal advisory committee.

The Office of Small Business Utilization (OSBU) has responsibility for overseeing the General Services Administration's (GSA) best efforts to achieve the small business procurement goals set by the Small Business Administration (SBA). Several procurement preference program goals (HUBZone, Service-Disabled Veteran, Women-Owned) have proven to be difficult for GSA and the Federal government as a whole to reach. Other procurement issues such as subcontracting, size standards, and availability of small manufacturers, impact the government beyond procurement goals.

As the Federal government's primary contracting agency, GSA's procurement practices and policies to a large extent affect all other Federal agencies. The GSA Small Business Advisory Committee (SBAC) was established by the OSBU to solicit the ideas and experience of association executives and small business owners in the hopes that their recommendations would serve to make the GSA small business program more effective in the future, and in turn, the entire Federal government's program.

Committee members will represent a cross-section of various socio-economic groups and chambers of commerce. One member will be appointed from a chamber of commerce from each of the following socio-economic groups: African American, Asian American / Pacific Islander, Hispanic, Native American / Alaska Native, Veteran / Service-Disabled Veteran, and Women-owned businesses. Additional members may be selected based on their expertise in government contracting, doing business with the Federal government,

and small business knowledge in general.

FOR FURTHER INFORMATION CONTACT:

Aaron Collmann, Room 6029, GSA Building, 1800 F Street, NW., Washington, DC 20405 (202) 501-1021 or email at sbac@gsa.gov.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463).

Dated: August 27, 2007

Michael J. Rigas

Deputy Associate Administrator, Office of Small Business Utilization, General Services Administration.

[FR Doc. 07-4282 Filed 8-28-07; 12:35 pm]

BILLING CODE 6820-34-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N-0041]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Administrative Procedures for the Clinical Laboratory Improvement Amendments of 1998 Categorization; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of May 16, 2007 (72 FR 27573). The document announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The document was published with an error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT:

Denver Presley, Jr., Office of the Chief Information Officer (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1472.

SUPPLEMENTARY INFORMATION: In FR Doc. E7-9435, appearing on page 27573 in the **Federal Register** of Wednesday, May 16, 2007, the following correction is made:

1. On page 27574, in the third column, in the third full paragraph, the sentence "The likely respondents for this collection are Investigational New Drug Application Sponsors." is

corrected to read "The likely respondents for this collection of information are manufacturers of medical devices."

Dated: August 23, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7-17153 Filed 8-29-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Office of the Commissioner; Statement of Organizations, Functions, and Delegations of Authority

Part D, Chapter D-B, (Food and Drug Administration), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 60 FR 56605, November 9, 1995, 64 FR 36361, July 6, 1999, and in pertinent part at 57 FR 54239) is being amended to reflect the restructuring of the Office of the Commissioner (OC), Food and Drug Administration (FDA). This reorganization includes the establishment of four Deputy-level offices within the Office of the Commissioner, the changes are as follows:

I. Under Part D, Food and Drug Administration, delete the Office of the Commissioner (DA) in its entirety and replace with the following:

DA.10 Organization. The Food and Drug Administration (FDA) is headed by the Commissioner, Food and Drug and includes the following organizational units:

Office of the Commissioner (DA), Office of the Chief Counsel (DAA), Office of the Chief of Staff (DAB), Office of International and Special Programs (DAL), Office of Operations (DAM), Office of Policy, Planning and Preparedness (DAH), Office of Scientific and Medical Programs (DAE).

DA.20 Functions

A. Office of the Commissioner D(A)—The Office of the Commissioner (OC) includes the Commissioner and Deputy Commissioner who are responsible for the efficient and effective implementation of FDA mission.

B. Office of the Chief Counsel (DAA)—The Office of the Chief Counsel (OCC) is also known as the Food and Drug Division, Office of the General Counsel, Department of Health and Human Services), while administratively within the Office of the Commissioner, is part of the Office of

the General Counsel of the Department of Health and Human Services.

1. Is subject to the professional supervision and control of the General Counsel, Department of Health and Human Services (HHS), and represents FDA in court proceedings and administrative hearings with respect to programs administered by FDA.

2. Provides legal advice and policy guidance for programs administered by FDA.

3. Acts as liaison to the Department of Justice and other Federal agencies for programs administered by FDA.

4. Drafts or reviews all proposed and final regulations and Federal Register notices prepared by FDA.

5. Performs legal research and gives legal opinions on regulatory issues, actions, and petitions submitted to FDA.

6. Reviews proposed legislation affecting FDA that originates in HHS or on which Congress requests the views of the Department.

7. Provides legal advice and assistance to the Office of the Secretary on matters within the expertise of the Chief Counsel.

C. Office of the Chief of Staff (DAB)—The Office of the Chief of Staff (OCOS):

1. Advises and provides integrated policy analysis and strategic consultation to the Commissioner, Deputy Commissioners, Associate Commissioners, Center Directors and other FDA officials on activities and issues that affect significant agency programs, projects and initiatives. Often this function involves the most difficult problems, crisis situations and extremely complex issues of FDA.

2. Provides leadership, coordination and management of the Commissioner's priority policies and issues across the Office of the Commissioner and FDA-wide. Identifies, triages, supervises and tracks related actions from start to finish in conjunction with senior leadership across FDA.

3. Provides direct support to the Commissioner of Food and Drugs and serves as major point of contact between the FDA Centers and Offices and the Commissioner.

4. Serves as the principal liaison to HHS and coordinates and manages activities between FDA and HHS. Works with the FDA Centers and Offices to ensure assignments or commitments made related to these activities are carried out.

5. Serves as one of the Commissioner's primary strategic liaisons with staff, partners, and the community at large.

6. Manages budget and resources and provides operation oversight for the FDA's Office of Legislation, Office of the

Executive Secretariat, Office of Public Affairs, and Office of External Relations

7. Provides top level leadership and guidance on issues and actions tied to the FDA's external communications, public affairs, and legislative matters.

D. *Office of International & Special Programs (DAL)*. The Office of International and Special Programs (OISP):

1. Serves as FDA focal point for all international matters, pediatric matters, and combination product matters.

2. Advises the Commissioner and other key FDA officials on FDA's formulation and execution and cross cutting and precedent setting issues involving international, pediatric, and combination product matters.

3. Serves as the agency liaison with other U.S. Government components, international and foreign governments (including Washington, DC embassies) for policy formulation and execution impacting FDA and FDA regulated products.

4. Directs and monitors FDA strategic planning, priority-setting, and resource allocation processes for FDA international, pediatric and combination product matters.

5. Provides leadership to FDA program areas for international, pediatric and combination product activities.

6. Serves as the focal point for FDA international visitor program.

7. Serves as the focal point for FDA and the authority for policies and procedures pertaining to international travel.

8. Serves as the focal point for international-related training (external and internal).

9. Serves as the focal point for FDA international technical cooperation and assistance activities.

10. Serves as FDA focal point for all information exchange with foreign counterparts on international matters to ensure consistency internally and externally.

11. Serves as FDA focal point for contacts with foreign governments and international organizations (including Washington, DC embassies).

12. Serves as FDA focal point for planning and coordinating meetings involving international, pediatric and combination product matters.

E. *Office of Operations (DAM)*—The office of Operations (OO):

1. Provides executive direction, leadership, coordination, and guidance for the overall day-to-day operations of FDA assuring the timely and effective implementation of operations and high quality delivery of services across FDA and its Centers.

2. Oversees the day-to-day operational activities and the interaction and execution of new program initiatives across all Centers, Field offices, Regions, and the Office of the Commissioner.

3. Advises and assists the Commissioner, Deputy Commissioners, Chief of Staff, Chief Counsel, Center Directors, and other key FDA officials on various management and business processes, compliance-oriented and legislative matters of FDA.

4. Works with other senior FDA leadership to make decisions that are consistent with broad conceptual guidelines of the Commissioner, to meet the changing needs of FDA and new legislation.

5. Leads FDA effort to analyze agency business processes for process modernization and bioinformatics support.

6. Leads and coordinates the Prescription Drug User Fee Act program initiative for Performance Management and quality systems studies.

7. Coordinates FDA's business process planning function in support of business process improvement and automation efforts.

8. Provides executive leadership and operational oversight to the Office of the Commissioner.

9. Assure that the conduct of FDA administrative and financial management activities, including budget, finance, human resources, organization, methods, and similar support activities effectively support program operations.

10. Provides FDA's administrative management services including information technology, communications, financial transaction functions, procurement, facilities, and equal employment opportunity and diversity management. Utilizes a call center to address all administrative and information technology management issues, and monitors and analyzes operational performance and customer satisfaction.

11. Plans, directs and coordinates a comprehensive financial management program for FDA encompassing the areas of automated financial systems, fiscal accounting, voucher audit, and financial reporting. Issues periodic reports regarding the status of FDA's financial management and develops financial inputs for FDA's programs and financial plans.

12. Provides leadership and direction regarding all aspects of a variety of FDA management programs including internal controls, OIG liaison, organization management, delegations of authority, freedom of information, privacy act, and regulatory dockets

management as well as programs related to ethics and conflict of interest matters.

13. Advises the Commissioner and other key Agency officials on administrative management and budget matters for components within the Office of the Commissioner (OC).

14. Provides advice and guidance with regard to formulation and development of administrative management policies; procedures, and controls.

15. Provides advice and assistance to the Commissioner and senior management officials in information technology resources and programs. Establishes and oversees implementation of the FDA information technology policy and governance, procedures and processes to bring the Agency in conformance with the Clinger/Cohen Act. Establishes, directs and leads FDA level programs and all strategic aspects of information technology including: information technology (IT) shared services, telecommunications, security, strategic planning, capital planning and investment control, and enterprise architecture.

16. Plans, organizes, and carries out annual and multi-year budgeting in support of FDA's public health mission and programs. Provides staff assistance in justifying budgets through executive and congressional echelons. After appropriations, develops an orderly expenditure plan.

17. Serves as the first responder for FDA in emergency and crisis situations involving FDA regulated products or in situations where FDA regulated products are needed to be utilized or deployed.

F. *Office of Policy, Planning and Preparedness (DAH)*—The Office of Policy, Planning and Preparedness (OPPP):

1. Advises the Commissioner and other key FDA officials on matters relating to policy, development of regulations and guidance, legislative issues, and planning and evaluation activities, and counter-terrorism and emerging threats.

2. Participates with the Commissioner in the formulation of the basic policies and operational philosophy, which guide FDA in effectively implementing its responsibilities.

3. Oversees and directs the FDA's rulemaking activities and regulations and guidance development system.

4. Serves as FDA focal point for developing and maintaining communications, policies, and programs with regard to development.

5. Oversees and directs FDA planning and evaluation activities, including the

development of programs and planning strategies through analysis and evaluation of issues affecting policies and program performance.

G. Office of Scientific and Medical Programs (DAE). The Office of Scientific and Medical Program (OSMP):

1. Serves as the focus for scientific medical and related activities in the Office of the Commissioner.

2. Assists the Deputy Commissioner/Chief Medical Officer in planning, executing and monitoring FDA scientific and medical projects and programs.

3. Operates the following FDA programs: a. Orphan Drug Program; b. Women's Health Program; c. Good Clinical Practices Program; d. Critical Path Initiative Program; and e. FDA Fellowship Program.

4. Performs scientific research on the safety of regulated products through the National Center for Toxicological Research.

5. Manages FDA's committee on Research Involving Human Subjects and FDA's Science Board.

6. Represents the FDA on U.S. government committees and other Federal agencies on matters involving science or technology.

7. Manages processes related to research coordination and scientific peer review activities at FDA.

II. *Delegations of Authority.* Pending further delegation, directives or orders by the Commissioner of the Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

Dated: August 23, 2007.

Michael O. Leavitt,
Secretary.

[FR Doc. 07-4259 Filed 8-29-07; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. CGD17-07-002]

Cook Inlet Regional Citizen's Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of recertification.

SUMMARY: The Coast Guard has recertified the Cook Inlet Regional Citizen's Advisory Council for the period covering September 1, 2007,

through August 31, 2008. Under the Oil Terminal and Oil Tanker Environmental Oversight Act of 1990, the Coast Guard may certify on an annual basis an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by the statute.

DATES: The Cook Inlet Regional Citizen's Advisory Council is certified through August 31, 2008.

ADDRESSES: You may request a copy of the recertification letter by writing to Commander, Seventeenth Coast Guard District (dpi), P.O. Box 25517, Juneau, AK 99802-5517; or by calling 907-463-2809.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gary Koehler, Seventeenth Coast Guard District (dpi), telephone 907-463-2809.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On September 1, 2006, the Coast Guard recertified the Cook Inlet Regional Citizen's Advisory Council through August 31, 2007. Under the Oil Terminal and Oil Tanker Environmental Oversight Act of 1990 (33 U.S.C. 2732), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by Congress, 33 U.S.C. 2732(b).

On September 16, 2002, the Coast Guard published a notice of policy on revised recertification procedures for alternative voluntary advisory groups in lieu of councils at Cook Inlet, Alaska (67 FR 58440, 58441). This revised policy indicated that Cook Inlet Regional Citizen's Advisory Council recertification in 2006 need only submit a streamlined application and public comments would not be solicited prior to that recertification.

Dated: August 13, 2007.

Arthur E. Brooks,

Rear Admiral, U.S. Coast Guard Commander,
Seventeenth Coast Guard District.

[FR Doc. E7-17145 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 30-day notice of information collection under review; National Security Entry-Exit Registration System; OMB Control No. 1653-0036

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 29, 2007, Vol. 72, No. 125 35714, allowing for a 60-day comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days until October 1, 2007.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Lee Shirkey, Program Manager, Records Management Branch, U.S. Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353-2266.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used,

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* National Security Entry-Exit Registration System.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Form Number, OMB Control Number 1653-0036, U.S. Immigration and Customs Enforcement.

1. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households. This information collection requires certain nonimmigrant aliens to make specific reports to USICE upon arrival; approximately 30 days after arrival; every 12 months after arrival; upon certain events, such as change of address, employment or school; and at the time they leave the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 58,000 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 29,000 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Lee Shirkey, Program Manager, Records Management Branch, U.S. Immigration and Customs Enforcement, 425 I Street, NW., Room 1122, Washington, DC 20536; (202) 353-2266.

Dated: August 27, 2007.

Lee Shirkey,

Program Manager, Records Management Branch, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. E7-17200 Filed 8-29-07; 8:45 am]

BILLING CODE 9111-28-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-910-07-1739-NSSI]

Notice of Public Meeting, North Slope Science Initiative, Science Technical Advisory Panel, AK

AGENCY: Bureau of Land Management, Alaska State Office, North Slope Science Initiative, Interior.

ACTION: Notice of public meeting in Anchorage, Alaska.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior's North Slope Science Initiative (NSSI) Science Technical Advisory Panel (STAP) will meet as indicated below.

DATES: The meeting will be held September 27, 2007, in Anchorage, Alaska. The meeting will begin at 9 a.m. in the Bureau of Land Management's Denali Room, 4th Floor, Federal Building and U.S. Courthouse, 222 West 7th Avenue. Public comment period will begin at 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: John F. Payne, Director, North Slope Science Initiative (910), c/o Bureau of Land Management, 222 W. Seventh Avenue, #13, Anchorage, Alaska 99513. Telephone (907) 271-3431 or e-mail john_f_payne@blm.gov.

SUPPLEMENTARY INFORMATION: The North Slope Science Initiative's Science Technical Advisory Panel provides advice and recommendations to the North Slope Science Oversight Group (OG) regarding priority needs for management decisions across the North Slope of Alaska. These priority needs may include recommendations on inventory, monitoring and research activities that contribute to informed land management decisions. At this meeting, topics for discussion include:

- Status of NSSI membership, budget, and review of fiscal year 2007.
- Review of STAP membership.
- Organization of the STAP and subgroups.
- Functionality of the STAP in relation to the OG.
- Relationship of NSSI staff committee to the STAP.
- Current charter and call for nominations.
- Expectations of the STAP.
- Other topics the OG or STAP may introduce.

All meetings are open to the public and have time allotted for hearing public comments. Depending on the

number of persons wishing to comment and time available, the time for individual oral comments may be limited. The public may present written comments to the Science Technical Advisory Panel. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the North Slope Science Initiative staff at (907) 271-3431 or e-mail john_f_payne@blm.gov.

Dated: August 24, 2007.

Julia Dougan,

Acting State Director.

[FR Doc. E7-17169 Filed 8-29-07; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

[ID-200-1120-PH]

Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of September Resource Advisory Council Meeting to be held in Twin Falls District, ID.

SUMMARY: This notice announces the intent to hold a Resource Advisory Council (RAC) meeting in the Twin Falls District of Idaho on Wednesday, September 12, 2007. The meeting will be held at the Red Lion Canyon Springs Hotel, 1357 Blue Lakes Boulevard North, Twin Falls, Idaho.

SUPPLEMENTARY INFORMATION: The Twin Falls District Resource Advisory Council consists of the standard fifteen members residing throughout south central Idaho. Meeting agenda items will include updates on the 2007 Fire Season, Jarbidge Field Office RMP effort, Field Offices updates, recreation fee efforts in partnership with the Forest Service and more.

FOR FURTHER INFORMATION CONTACT: Sky Buffat, Twin Falls District, Idaho, 400 West F Street, Shoshone, Idaho 83352, (208) 732-7307.

Dated: August 14, 2007.

Bill Baker,

Twin Falls District Manager.

[FR Doc. E7-17181 Filed 8-29-07; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-200-1430-EU; COC-70516]

Notice of Realty Action: Proposed Competitive Sale of Public Land, Boulder County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: A single 6.54-acre parcel of Federal public land near Ward, in Boulder County, Colorado, has been examined and found suitable for sale using the competitive sale procedures of Title 43 Code of Federal Regulations, Sub Part 2711. The authority for the sale is Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 and 1713).

DATES: The parcel will be segregated on the date of publication of this notice in the **Federal Register**. Comments regarding the proposed sale must be received by the Bureau of Land Management (BLM) at the address listed below by October 15, 2007. BLM will accept sealed bids for the parcel from qualified bidders up to February 27, 2008, and accept oral bids at a public auction scheduled for February 29, 2008.

ADDRESSES: Written comments regarding the proposed sale may be sent to the BLM at the following address: Field Manager, Royal Gorge Field Office, Bureau of Land Management, 3170 East Main Street, Canon City, Colorado 81212.

The address for oral bidding registration and the location of the public auction is: Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Information regarding the competitive sale instructions, procedures, documents, map, and materials to submit a bid can be obtained at the public reception area at the BLM Royal Gorge Field Office, or by contacting Debbie Bellew at (719) 269-8514 or dbellew@co.blm.gov.

SUPPLEMENTARY INFORMATION: The following described parcel of public land is proposed for sale:

Sixth Principal Meridian, Colorado

T. 1 N., R. 73 W.,

Section 12, Proposed Lot 67.

The area described contains 6.54 acres, in Boulder County.

The parcel is approximately 1 mile south of the town of Ward, Colorado.

The parcel described in this notice was identified for disposal in an approved land use plan in effect on July 25, 2000. Proceeds from this sale will be deposited into the Federal Land Disposal Account authorized under Section 206 of the Federal Land Transaction Facilitation Act, Public Law 106-248. The parcel is not required for Federal purposes and was identified for disposal in the BLM Northeast Colorado Resource Management Plan approved in September 1986, and therefore meets the qualifications for disposal from Federal ownership. The disposal (sale) of the parcel would serve the public interest for private economic development.

On August 30, 2007, the parcel will be segregated from appropriation under the public land laws, including the mining laws, except as to competitive sale as herein proposed. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or August 31, 2009 unless extended by the BLM State Director, Colorado, in accordance with 43 CFR 2711.1-2(d) prior to the termination date. The parcel will be offered for sale using both sealed and oral bid procedures on February 29, 2008 at an oral auction, for not less than the appraised fair market value (FMV). Federal law requires that bidders must be citizens of the United States, 18 years of age or older, or in the case of a corporation, be subject to the laws of any State of the United States. Proof of citizenship shall accompany the bid. The appraised FMV of the parcel will be determined approximately 30 days in advance of the auction date. In addition to the appraised FMV minimum bid and any bid addition, the successful bidder/purchaser shall reimburse the BLM for its costs of \$7,411.00 incurred for surveying the boundaries of the parcel.

Sealed bids under 43 CFR 2711.3-1(c) must be received at the BLM Royal Gorge Field Office no later than 4:30 p.m., MST, February 27, 2008. The outside of bid envelopes must be clearly marked on the front lower left-hand corner with "SEALED BID" "BLM Land Sale CO, COC-70516" and the bid opening date of February 29, 2008.

Sealed bid opening will begin at 9 a.m., MST, February 29, 2008, and the highest acceptable bid will be

determined. All oral bidders are required to register, which will begin at 8 a.m. and end at 9 a.m. MST, on February 29, 2008. Prospective oral bidders are encouraged to pre-register by mail or fax (719-269-8599) by completing the form in the sale packet available for this sale. The highest qualifying sealed bid will become the starting bid at the oral auction. If no sealed bids are received, oral bidding will begin at the FMV, as determined by the authorized officer and will be accepted in \$100 increments only. If no oral bids are received, the highest acceptable sealed bid will be considered the purchaser. The apparent high bidder must submit a deposit of not less than 30 percent of the successful bid at the end of the auction along with \$7,411.00 to cover the survey costs. The remainder of the full bid price must be paid within 180 calendar days from the date of the sale. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and shall result in forfeiture of the entire 30 percent deposit to the BLM. The BLM cannot accept the full price at any time following the 180th day after the sale. Payments must be in the form of a certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to the order of the U.S. Department of the Interior—BLM. *Personal checks will not be accepted.*

Following the auction, all monies submitted with sealed bids will be returned to the unsuccessful bidders.

Terms and Conditions of Sale

The following reservations, rights, and conditions will be included in the patent that may be issued for the above parcel of Federal land: A reservation to the United States for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

The parcel will be subject to valid existing rights and to the following: (1) A right-of-way for access purposes as granted to Iddo and Kathleen Pittman by COC-38793; (2) a right-of-way for telephone line purposes granted to Qwest by COC-49796; and (3) those rights for highway purposes as granted to the Colorado Department of Transportation by COC-051676. Conveyance of any mineral interests pursuant to Section 209 of the FLPMA will be analyzed during processing of the proposed sale. The purchaser/grantee, accepting the patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and

judgment of any kind arising from the past, present, or future acts of omissions of the grantor, its employees, agents, contractor, or lessees, or a third party arising out of, or in connection with, grantor's use and/or occupancy of the deeded real property resulting in: Violations of Federal, State, and local laws and regulations that are now, or in the future, become applicable to the real property; (2) judgments, claims, or demands of any kind assessed against the United States; (3) costs, expenses, or damages of any kind incurred by the United States; (4) releases or threatened release of solid or hazardous waste(s) and/or hazardous substance(s) as defined by the Federal or State environmental laws, off, on, into, or under land, property, and other interest of the United States; (5) other activities by which solid or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, restored, used, or otherwise disposed of on the deeded real property, and any cleanup response rendered remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the deeded real property and may be enforced by the United States in a court of competent jurisdiction.

Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (42 U.S.C. 9620(h)), as amended by the Superfund Amendments and Reauthorization Act of 1988, (100 Stat. 1670), notice is hereby given that the above-described parcel has been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor has any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, expressed or implied, is given by the United States as to the title, or the physical condition or potential uses of the parcel of land proposed for sale. Under Boulder County Land Use Code, newly created parcels of less than 35 acres are not legal building lots for which building permits may be issued. The conveyance will not be on a contingency basis. It is the buyer's responsibility to be aware of: (1) All applicable Federal, State, or local government laws, regulation, or policies that may affect the subject parcel or its future uses, and (2) existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to

any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may impact the future use of the property. If the parcel lacks access from a public road or highway it will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Public Comments

For a period until October 15, 2007, interested parties and the general public may submit in writing any comments concerning the parcel being considered for competitive sale, including notification of any encumbrances or other claims relating to the parcel, to the Royal Gorge Field Manager at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this notice. Comments, including names and street addresses of respondents, will be available for public review at the BLM Royal Gorge Field Office during regular business hours. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state it prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of an organization or business.

Any adverse comments will be reviewed by the BLM State Director, Colorado, who may sustain, vacate, or modify this realty action in whole or in

part. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Roy L. Masinton,

Royal Gorge Field Manager.

[FR Doc. 07-4266 Filed 8-29-07; 8:45 am]

BILLING CODE 4310-JB-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Augusta Museum of History, Augusta, GA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Augusta Museum of History, Augusta, GA that meet the definition of "unassociated funerary objects" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

At an unknown date, two cultural items were collected from "a grave near Walla Walla, Washington," located in Walla Walla County, WA, by L.W. Stillwell of Deadwood, SD (Catalogue number K-17 and K-19). At an unknown date, the cultural items came into the possession of Chester E. Story of Augusta, GA, and were subsequently purchased by Jouett Davenport, also of Augusta, GA, in January 1932. In April 1963, Mr. Davenport donated the cultural items to the Augusta Museum of History (then the Augusta-Richmond County Museum). The two unassociated funerary objects are one string of glass and shell disc beads, and one string of colored glass beads.

The donor of the collection, Mr. Davenport, told the Augusta Museum that the beads came from a grave near Walla Walla. The two strings of beads are typical personal adornment items that were often buried with the deceased. The beads date to the historic period, placing the grave within the post-European contact era or after trading was established in the area around 1818.

The Pa caxapu band of the Weyiiletpuu (Cayuse) wintered in the area presently known as the City of Walla Walla. The Weyiiletpuu had fishing sites and summer camps along the Walla Walla River. Oral histories identify the area as where the Weyiiletpuu, Imatalamlama, and Waluulapam live, and also identified many burial places of their ancestors within the valley and city limits of Walla Walla. Descendants of the Weyiiletpuu, Imatalamlama, and Waluulapam are members of the Confederated Tribes of the Umatilla Reservation, Oregon.

Officials of the Augusta Museum of History have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Augusta Museum of History also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Tribes of the Umatilla Reservation, Oregon.

Representatives of any other Indian Tribes that believes itself to be culturally affiliated with the unassociated funerary objects should contact Misty Tilson, Registrar, Augusta Museum of History, 560 Reynolds St., Augusta, GA 30901, telephone (706) 722-8454, before October 1, 2007. Repatriation of the unassociated funerary objects to the Confederated Tribes of the Umatilla Reservation, Oregon may proceed after that date if no additional claimants come forward.

The Augusta Museum of History is responsible for notifying the Confederated Tribes of the Umatilla Reservation, Oregon that this notice has been published.

Dated: August 8, 2007.

Sherry Hutt,

Manager, National NAGPRA.

[FR Doc. E7-17204 Filed 8-29-07; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Safety Harbor Museum of Regional History, Safety Harbor, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of Safety Harbor Museum of Regional History, Safety Harbor, FL. The human remains were removed from Pasco County, FL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Safety Harbor Museum of Regional History professional staff in consultation with representatives of Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations).

In 1925, human remains representing a minimum of one individual were removed from a farm near Elfers, Pasco County, FL, by a private land owner. The daughter of the land owner donated the human remains to an unnamed museum in Oldsmar, FL. Subsequently, the human remains were delivered by that museum to the Safety Harbor Museum of Regional History. In 2003, the human remains were found in the Safety Harbor Museum of Regional History's collection. Eight pottery sherds found with the human remains are reasonably believed to be associated funerary objects. No known individual was identified.

Museum records indicate that the human remains and associated funerary objects were removed from "Indian Mound - Feb. 7, 1925, Elfers, Fla." Based on dental morphology, the human remains are believed to be Native American. The associated funerary objects date to the Weeden Island Period (A.D. 200 - 900). The Tocobaga tribe inhabited the central Florida region during the Weeden Island Period. Although most of the Tocobaga perished within 200 years after the arrival of the Spanish explorers in the early part of the 16th century, it is reasonably believed that those that did survive assimilated into what became known as the Seminole and Miccosukee tribes. Historical and archeological evidence establish that Seminole and Miccosukee

people have been residents in central and southern Florida for several hundred years. The Seminole and Miccosukee are represented today by the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations).

Officials of the Safety Harbor Museum of Regional History have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Safety Harbor Museum of Regional History also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the eight objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Safety Harbor Museum of Regional History have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations).

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Walter Bowman, Assistant Office Manager, Safety Harbor Museum of Regional History, 329 Bayshore Blvd. South, Safety Harbor, FL 34695, telephone (727) 726-1668, before October 1, 2007. Repatriation of the human remains and associated funerary objects to the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations) may proceed after that date if no additional claimants come forward.

Safety Harbor Museum of Regional History is responsible for notifying Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations) that this notice has been published.

Dated: August 8, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 07-4263 Filed 8-29-07; 8:45 am]

BILLING CODE 4312-50-S

INTERNATIONAL TRADE COMMISSION

[USITC SE-07-016]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 7, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agenda for future meetings:* None.
 2. Minutes.
 3. Ratification List.
 4. Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review) (Certain Pasta from Italy and Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before September 27, 2007.)
 5. *Outstanding action jackets:* None.
- In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: August 27, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7-17231 Filed 8-29-07; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission ("Commission") has issued an annual report on the status of its practice with respect to violations of its administrative protective orders ("APOs") in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than under Title VII and violations of the

Commission's rules including the rule on bracketing business proprietary information ("BPI") (the "24-hour rule"), 19 CFR 207.3(c). This notice provides a summary of investigations completed during calendar year 2006 of breaches in proceedings under Title VII. In 2006, there were no completed investigations of breaches in proceedings other than Title VII. The Commission intends that this report inform representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT:

Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205-3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205-1810. General information concerning the Commission can also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Representatives of parties to investigations or other proceedings conducted under Title VII of the Tariff Act of 1930, sections 202 and 204 of the Trade Act of 1974, section 421 of the Trade Act of 1974, section 337 of the Tariff Act of 1930, and NAFTA Article 1904.13, 19 U.S.C. 1516a(g)(7)(A) may enter into APOs that permit them, under strict conditions, to obtain access to BPI (Title VII) or confidential business information ("CBI") (section 421, sections 201-204, and section 337) of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7; 19 CFR 207.100, *et. seq.*; 19 U.S.C. 2252(i); 19 U.S.C. 2451a(b)(3); 19 CFR 206.17; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34. The discussion below describes APO breach investigations that the Commission has completed during calendar year 2006, including a description of actions taken in response to these breaches.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 FR 4846 (Feb. 6, 1991); 57 FR 12,335 (Apr. 9, 1992); 58 FR 21,991 (Apr. 26, 1993); 59 FR 16,834 (Apr. 8, 1994); 60 FR 24,880 (May 10, 1995); 61 FR 21,203 (May 9, 1996); 62 FR 13,164 (March 19, 1997); 63 FR 25064 (May 6, 1998); 64 FR 23355 (April 30, 1999); 65 FR 30434 (May 11, 2000); 66 FR 27685 (May 18, 2001); 67 FR 39425 (June 7, 2002); 68 FR 28256 (May 23, 2003); 69 FR 29972 (May 26, 2004); 70 FR 42382

(July 25, 2005); 71 FR 39355 (July 12, 2006). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in March 2005 a fourth edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 3755). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, tel. (202) 205-2000 and on the Commission's Web site at <http://www.usitc.gov>.

I. In General

The current APO form for antidumping and countervailing duty investigations, which was revised in March 2005, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under this APO or otherwise obtained in this investigation and not otherwise available to him or her, to any person other than —

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decision making for an interested party which is a party to the investigation; and (d) have signed the acknowledgment for clerical personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for judicial or binational panel review of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO or otherwise obtained in this investigation without first having received the written consent of the Secretary and the party

or the representative of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: Storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit each document containing BPI disclosed under this APO:

(i) With a cover sheet identifying the document as containing BPI,

(ii) with all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) if the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

(iv) if by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information—To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.*, change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate, including the administrative sanctions and actions set out in this APO.

The APO further provides that breach of an APO may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

APOs in investigations other than those under Title VII contain similar, though not identical, provisions.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of CBI and BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI and CBI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission's Title VII and safeguard rules relating to BPI/CBI is the "24-hour" rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amended document pursuant to section 201.14(b)(2) of the Commission's rules.

II. Investigations of Alleged APO Breaches

Upon finding evidence of an APO breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation has commenced and that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of the General Counsel (OGC) prepares a letter of inquiry to be sent to the possible breacher over the Secretary's signature to ascertain the possible breacher's views on whether a breach has occurred.¹ If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission determines that although a breach has occurred, sanctions are not warranted, and therefore finds it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. A warning letter is not considered to be a sanction.

Sanctions for APO violations serve two basic interests: (a) Preserving the confidence of submitters of BPI that the Commission is a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "[T]he effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the

¹ Procedures for inquiries to determine whether a prohibited act such as a breach has occurred and for imposing sanctions for violation of the provisions of a protective order issued during NAFTA panel or committee proceedings are set out in 19 CFR 207.100—207.120. Those investigations are initially conducted by the Commission's Office of Unfair Import Investigations.

lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches by the same person or persons in other investigations and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit an economist or consultant to obtain access to BPI/CBI under the APO in a Title VII or safeguard investigation if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3)(B) and (C); 19 CFR 206.17(a)(3)(B) and (C). Economists and consultants who obtain access to BPI/CBI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, 19 U.S.C. 1677f(g).

The two types of breaches most frequently investigated by the Commission involve the APO's prohibition on the dissemination of BPI or CBI to unauthorized persons and the APO's requirement that the materials received under the APO be returned or destroyed and that a certificate be filed indicating which action was taken after the termination of the investigation or any subsequent appeals of the Commission's determination. The dissemination of BPI usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to

unauthorized recipients. Other breaches have included: The failure to bracket properly BPI/CBI in proprietary documents filed with the Commission; the failure to report immediately known violations of an APO; and the failure to adequately supervise non-legal personnel in the handling of BPI/CBI.

In the past several years, the Commission completed APOB investigations which involved members of a law firm or consultants working with a firm who were granted access to APO materials by the firm although they were not APO signatories. In these cases, the firm and the person using the BPI mistakenly believed an APO application had been filed for that person. The Commission determined in all of these cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. Action could be taken against these persons, however, under Commission rule 201.15 (19 CFR 201.15) for good cause shown. In all cases in which action was taken, the Commission decided that the non-signatory was a person who appeared regularly before the Commission and was aware of the requirements and limitations related to APO access and should have verified his or her APO status before obtaining access to and using the BPI. The Commission notes that section 201.15 may also be available to issue sanctions to attorneys or agents in different factual circumstances where they did not technically breach the APO but where their actions or inactions did not demonstrate diligent care of the APO materials even though they appeared regularly before the Commission and were aware of the importance the Commission placed on the care of APO materials.

The Department of Commerce ("Commerce") performs functions related to those of the Commission under title VII, including the issuance of APOs. The two agencies cooperate when necessary in the identification of possible APO breaches. In 2006, one APOB investigation was completed that involved a referral from Commerce about the possible release of BPI obtained under the Commission's APO during a meeting at the Department. No breach was found in that matter and it is summarized as Case 2 for the investigations in which no breach was found. Similarly, also in 2006, a concern arose that proprietary information obtained under Commerce's APO may have been released during a Commission hearing. Commerce was informed of the situation by Commission staff.

The Commission's Secretary has provided clarification to counsel representing parties in investigations relating to global safeguard actions, section 202(b) of the Trade Act of 1974, investigations for relief from market disruption, section 421(b) or (o) of the Trade Act of 1974, and investigations for action in response to trade diversion, section 422(b) of the Trade Act of 1974, and investigations concerning dumping and subsidies under section 516A and title VII of the Tariff Act of 1930 (19 U.S.C. 1303, 1516A and 1671–1677n). The clarification concerns the requirement to return or destroy CBI/BPI that was obtained under a Commission APO.

A letter was sent to all Counsel on active service lists in mid-March 2007. Counsel were cautioned to be certain that each authorized applicant files within 60 days of the completion of an investigation or at the conclusion of judicial or binational review of the Commission's determination a certificate that to his or her knowledge and belief all copies of BPI/CBI have been returned or destroyed and no copies of such material have been made available to any person to whom disclosure was not specifically authorized. This requirement applies to each attorney, consultant, or expert in a firm who has been granted access to BPI/CBI. One firm-wide certificate is insufficient. This same information is also being added to notifications sent to new APO applicants.

In addition, attorneys representing clients in section 337 investigations should send a notice to the Commission if they are no longer participating in a section 337 investigation or the subsequent appeal of the Commission's determination. In Case 10 of the summaries of completed 2005 APOB investigations published in the **Federal Register** on July 12, 2006 (71 FR 39361), the Commission found that a lead attorney, who left a law firm which represented a respondent in a Commission investigation after the investigation was completed but before the appeal of the Commission's determination had ended, breached the APO by not informing the Commission of his departure and that he should no longer be a signatory to the APO. In addition, the Commission found that he had also breached the APO by failing to ensure that his former firm complied with the APO requirements for returning and destroying the confidential materials obtained under the APO. Thus, individual counsel in section 337 investigations should take care to inform the Commission of their departure from a position for which

they are a signatory to a Commission APO and to inform the Commission about their disposition of CBI obtained under the APO that is in their possession or they could be held responsible for any failure of their former firm to return or destroy the CBI in an appropriate manner.

III. Specific Investigations in Which Breaches Were Found

The Commission presents the following case studies to educate users about the types of APO breaches found by the Commission. The studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1. The Commission determined that an associate attorney and a professional assistant breached the APO by failing to redact BPI from the public version of the prehearing brief filed by their law firm.

The firm uses a macro for redaction of bracketed material. However, because the macro does not remove BPI from bracketing in charts and tables, the professional assistant was responsible for manually redacting the BPI. The associate attorney was the final attorney to review the brief and sign it for the firm. The breach was inadvertent, neither person sanctioned had previous APO breaches during the two-year period normally examined by the Commission for sanctions purposes, the firm took quick action to minimize the effect of the release of the BPI, and the firm improved its procedures to avoid a similar incident in the future. Nevertheless, the Commission decided to issue a private letter of reprimand to both the attorney and the professional assistant because a non-signatory of the APO read the BPI that had been released.

Initially, the Commission had also found that the lead attorney, a partner, and the APO coordinator had both breached the APO because they failed to follow the procedures in place prior to the breach which required that either a partner or the APO coordinator review the brief before it is filed. During the sanctions phase of the APOB investigation the partner and the APO coordinator requested that the Commission reconsider its

determination that they had breached the APO because the requirement that a partner or the APO coordinator review the brief was a new procedural requirement that became effective after the breach in question. The APO coordinator, in providing the Commission with the firm's new procedures, had inadvertently indicated that this requirement was in place prior to the breach. Because the partner was unaware of the error made by the APO coordinator concerning the new procedures, the argument that he was not responsible for the breach had not previously been available to him. The Commission considered the argument and determined that the partner and the APO coordinator had not breached the APO. Since the APO coordinator caused the confusion by not taking sufficient care in his communications regarding the procedures with the Commission, he was admonished in the Commission's letter to be more careful about his communications with the Commission and his awareness of the firm's APO procedures. The Commission also stated that he should have been on notice of the need for particular vigilance with respect to unauthorized disclosure of BPI because other personnel in his firm had previously breached the APO by disclosing BPI to an unauthorized person.

Case 2. The Commission determined that a trade analyst at a law firm had breached the APO when he gave a document containing BPI to a clerical employee to proofread although the clerical employee was not subject to the APO.

A partner at the law firm who was the supervising attorney in the Commission investigation had instructed the trade analyst to prepare a spreadsheet which would contain BPI. He also instructed the analyst to handle the material according to APO guidelines and assign work on the document to only those clerical employees who were included on the APO. Instead, the analyst gave the final proofreading responsibility to a clerical employee who was not listed on the APO.

The Commission issued a warning letter to the trade analyst. The trade analyst had no prior APO breaches within the two-year period normally considered by the Commission for sanctions purposes. The only non-signatory who viewed the BPI was the clerical employee. The BPI was not divulged outside the law firm nor to any other non-signatory in the firm. The firm took immediate steps to change its procedures to be sure that no clerical person who was not on the APO would have access to BPI in future cases. The

breach was discovered by the analyst, who reported it to the supervising attorney.

The Commission found that the supervising attorney and the clerical employee did not breach the APO. The trade analyst had eight years of experience with Commission investigations and no prior breaches, thus making the delegation of responsibility for preparing the document in question reasonable. The clerical employee was not subject to the APO and had handled the BPI in a manner that would not place the information at risk of being further divulged.

Case 3. The Commission found that an attorney breached the APO by providing a document containing BPI to an economic consultant who was not a signatory to the APO.

An attorney in a law firm gave a copy of a document containing BPI to the economic consultant working with his firm on a Commission investigation. He provided this document under the mistaken belief that the law firm had filed an APO application that had been signed by the consultant and that the application had been approved. The consultant had been told by the attorney that the APO application had been filed and approved. Thus, the consultant, based on this information, accepted the document and retained it in his files for almost five months, until the breach was discovered by the attorney. At all times the consultant treated the BPI as if he were a signatory of the APO.

The Commission decided to issue a warning letter to the attorney instead of a private letter of reprimand in light of several mitigating circumstances. The disclosure of the BPI was to a consultant practitioner who safeguarded the BPI under the terms of the APO. The breach was inadvertent; the attorney acted under the mistaken belief that the consultant was a signatory to the APO. The attorney had not had any previous APO violations within the two-year period normally considered by the Commission for sanctions purposes. Finally, the attorney took prompt action to remedy the breach once he discovered it.

The Commission also considered whether there was good cause to sanction the consultant under Commission rule 201.15 (19 CFR 201.15) for accepting the document containing BPI while not being a signatory to the APO. The Commission decided that there was not good cause because the consultant reasonably relied on representations of counsel that his APO application had been filed and approved. However, the consultant was

advised for future investigations to ensure independently that he and his staff are subject to the APO before accessing BPI.

Case 4. The Commission found that a lead attorney and a legal assistant breached the APO by filing a public version of a prehearing brief containing BPI.

After a law firm filed the confidential version of their client's prehearing brief, and the public version was reviewed by an associate attorney, the lead attorney decided to expand the bracketing on a particular page of the confidential brief. The lead attorney then asked a legal assistant to prepare a public version of the replacement page and substitute that page into the public version of the brief. The next morning, when the public brief was scheduled to be filed, the lead attorney asked the associate to oversee the production and filing of the brief. The brief was then filed by the legal assistant without further review by either attorney.

The Commission issued warning letters to the lead attorney and the legal assistant for failing to redact BPI from the replacement page. The Commission noted that the lead attorney was the supervising attorney for the failed redaction process, allowing the unredacted page to be filed with the Commission without an attorney reviewing that page. The Commission decided to issue a warning letter instead of a private letter of reprimand because this was the only breach in which the lead attorney had been involved within the two-year period normally considered by the Commission for sanctions purposes, the breach was unintentional, prompt action was taken to remedy the breach, and the firm took measures to assure that this type of error would not occur in the future, specifically revising its APO procedures to ensure that an attorney will review and sign off that a redacted replacement page is ready for filing. No non-signatory to the APO gained access to the BPI.

In determining that the legal assistant breached the APO, the Commission noted that the assistant was delegated the responsibility of redacting the BPI from the brief and that she was directly involved in the process and acknowledges that she forgot to redact all of the BPI. The Commission considered the same mitigating factors for the legal assistant as for the lead attorney in determining that she should receive a warning letter instead of a private letter of reprimand.

The Commission found that the associate was not responsible for the breach because he did not prepare or

review the replacement page and did not have first hand knowledge of the incident.

A second breach was also alleged regarding this brief. An attorney from another firm informed the lead attorney that information that had been bracketed in an exhibit to the public version of the brief was not redacted. The Commission determined that this was not a breach because the information was not obtained through the APO and was otherwise available to the firm.

Case 5. The Commission determined that an attorney and a paralegal breached the APO by failing to redact bracketed BPI from the public version of a pre-hearing brief.

The attorney prepared the public version of the brief and attached several exhibits from the confidential version of the brief. He then instructed the paralegal to redact all bracketed information in the brief and attachments. After the paralegal removed the bracketed information the attorney reviewed the document and approved it for filing. The attorney's legal secretary then filed the public version of the pre-hearing brief together with the confidential version of the brief.

Ten days later the attorney was informed by the Commission Secretary that one of the exhibits contained unredacted bracketed BPI. The attorney then took immediate action to cure the problem by alerting counsel for other parties and instructing them and his legal secretary to destroy all hard copies and electronic copies of the exhibit containing BPI. The attorney determined that no non-signatory had been provided with a copy of the brief. The law firm took immediate steps to change its procedures to avoid similar problems in the future.

The Commission decided to issue warning letters instead of private letters of reprimand to the attorney and the paralegal because no non-signatory read the BPI, the breach was inadvertent, neither person had been found to have breached an APO within the two-year period normally considered by the Commission for sanctions purposes, the firm took immediate steps to remedy the breach once the attorney was notified of the breach, and it changed its procedures to assure that this type of error would not occur in the future. The Commission also decided that the legal secretary did not breach the APO because she had only been instructed to file the brief and not check the document for confidential information.

There were three investigations in which no breach was found:

Case 1. The Commission determined that an attorney responsible for preparing the public version of a prehearing brief did not breach the APO even though he failed to redact all of the bracketed information from the brief. The Commission determined that the unredacted information was not BPI in that it consisted of general descriptions of trends of otherwise proprietary data and the trends were publicly available.

Case 2. A question was raised by a Department of Commerce ("Commerce") official concerning whether BPI from the Commission's investigation was used during a meeting regarding the Commerce side of the investigation. The lead attorney for a party commented at the meeting that Commerce officials should request certain questionnaire responses from the Commission's record to clarify issues in the Commerce investigation. The Commission noted in a letter to the lead attorney that this could be construed to suggest that the attorney was aware of the contents of the questionnaire responses and was using the confidential information obtained under the Commission's APO to respond to questions in the Commerce proceedings. This would normally be a breach in that signatories to an APO agree to use BPI obtained under that order solely for the purposes of the Commission investigation in question. The Commission determined that the attorney's statement was not a breach, however, because the Commission had discussed the specific issue in the public version of its views and had relied heavily on those questionnaire responses in its discussion.

In addition to the lead attorney, another partner and a trade analyst for the law firm were at the meeting. The Commission found that the trade analyst did not breach the APO because he did not discuss the questionnaire responses from the Commission investigation and limited his discussion to specific methodologies and facts pertaining to information on the record at Commerce. The Commission found that good cause did not exist to sanction the partner, who was not an APO signatory, under Commission rule 201.15 (19 CFR 201.15) because, although he attended the meeting, he did not participate in the substantive discussions.

Case 3. A law firm attached an exhibit list containing BPI to its post-hearing brief. The Commission determined that disclosure of the information in the exhibit list was not a breach of the APO. Part of the information was not BPI because it was on the public record at the time the brief was filed; the other information concerned was BPI

obtained from the law firm's clients and not obtained under the APO.

By order of the Commission.

Issued: August 27, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-17188 Filed 8-29-07; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Modification of Consent Decree Under the Clean Water Act

Notice is hereby given that on August 15, 2007, a proposed Modification of Consent Decree ("Modification") in *United States of America v. Puerto Rico Aqueduct and Sewer Authority, The Commonwealth of Puerto Rico and Compania de Aguas de Puerto Rico, Inc.*, Civil Action No. 01-1709 (JAF) was lodged with the United States Court for the District of Puerto Rico. The Consent Decree requires the Puerto Rico Aqueduct and Sewer Authority ("PRASA") to, among other things, develop and implement a system-wide operation and maintenance plan ("OMP") for all pump station facilities in Puerto Rico owned or operated by PRASA. The Consent Decree requires PRASA to draft and implement this OMP in accordance with a schedule set forth in ¶13. The proposed Modification seeks to replace the schedule set forth in ¶13 with a new schedule that includes deadlines for phasing in interim and final portions of the OMP, and requires complete implementation by December 31, 2010.

In addition, the Consent Decree requires PRASA to perform a "Supplemental Environmental Project" ("SEP"). The Modification affects the last activity/milestone of this SEP, listed in Appendix E of the Consent Decree, entitled "Work Plan Supplemental Environmental Project." To date, PRASA has completed the first three milestones to be performed. In an effort to clarify PRASA's obligations in implementing the SEP, the parties have agreed to modify the last activity/milestone listed in Appendix E to provide for completion dates for the SEP projects.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Modification of Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or

mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. PRASA*, D.J. Ref. 90-5-1-1-06475/1.

The proposed Modification of Consent Decree may be examined at the Office of the United States Attorney, Federal Office Building, Rm. 10, Carlos E. Chardón Avenue, San Juan, Puerto Rico, and at U.S. EPA Region II, 290 Broadway, New York, New York. During the public comment period, the Modification of Consent Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Modification of Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$1.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ellen Mahan,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 07-4251 Filed 8-29-07; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on August 16, 2007, a proposed Addendum to the Consent Decree ("Addendum") in *United States v. Valero Energy Company, et al.*, Civil Action No. SA-07-CA-0683, was lodged with the United States District Court for the Western District of Texas.

In this action, the United States sought a civil penalty and injunctive relief for violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, and its implementing regulations, in connection with the petroleum refineries that settling Defendant Premcor Refining Group Inc. operates in Memphis, Tennessee and Port Arthur, Texas, and that settling Defendant Lima Refining Company operates in Lima, Ohio. Specifically, the United States alleged violations of the New Source Performance Standards for petroleum

refineries and the National Emission Standards for Hazardous Air Pollutants for Benzene Waste Operations. The Addendum requires Defendant Premcor Refining Group, Inc. and Defendant Lima Refining Company to implement injunctive relief to improve their refineries' performance, including reducing emissions from major refinery units, reducing the flaring of process upset gasses, improving leak detection and repair procedures, and improving the management of benzene wastewater streams. The Addendum also requires the Defendants to pay a \$4.25 million civil penalty to the United States, the State of Ohio, and Memphis-Shelby County Health Department. The United States will receive \$2.7 million of the civil penalty. The Addendum also requires the Defendants to perform several Supplemental Environmental Projects with a total value of \$4.25 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Addendum to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov, or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Premcor Refining Group, Inc. et al.*, D.J. Ref. # 90-5-2-1-06811/1.

The Addendum may be examined at: The Office of the United States Attorney for the Western District of Texas, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216 (contact AUSA Susan Biggs); U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas, 75202 (contact Patricia Welton); U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia, 30303-8960 (contact Marlene Tucker); and U.S. EPA Region 5, 77 West Jackson Blvd. (C-13J), Chicago, Illinois, 60604 (contact Mary T. McAuliffe). During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html.

A copy of the Consent Decree also may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547.

In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$30.75 (25 cents per page reproduction cost) payable to the

U.S. Treasury, or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 07-4250 Filed 8-29-07; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the period of *August 13 through August 17, 2007*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or

subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W-61,948; Chassis Supply Partners, On-Site Leased Workers From Randstad, Columbia, TN: August 2, 2006.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-61,400; Smart Papers, LCC, International Distribution Center (IDC), Formerly Known as PF Papers, LLC, West Chicago, IL: April 26, 2006.

TA-W-61,455; Ogihara America Corporation, On-Site Leased Workers From Action Associates, Howell, MI: May 4, 2006.

TA-W-61,495; Irvin Automotive Products, Inc., Including On-site

Leased Workers of Kirby Services, Pontiac, MI: May 7, 2006.
 TA-W-61,522; *Unifi, Inc., Dillon Plant, Dillon, SC: May 10, 2006.*
 TA-W-61,550; *Linq Industrial Fabrics, Inc., Summerville, SC: April 30, 2006.*
 TA-W-61,628; *Walter Dimension Company, Jamestown, TN: June 5, 2006.*
 TA-W-61,656; *Glen Raven Technical Fabrics, LLC, A Subsidiary of Glen Raven, Inc., Burnsville, NC: June 8, 2006.*
 TA-W-61,827; *Collins and Aikman, Americus Division, Americus, GA: July 10, 2006.*
 TA-W-61,913; *Sumersault Manufacturing Corp., Closter, NJ: July 31, 2006.*
 TA-W-61,924; *Domtar Industries, Inc., Workers of Domtar Industries, Inc., excluding the Pulp Mill, Baileyville, ME: July 31, 2006.*
 The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.
 TA-W-61,676; *Lynch Systems, Inc., Bainbridge, GA: June 12, 2006.*
 TA-W-61,740; *Continental Tire North America, Inc., A Division of Continental AG, Charlotte, NC: August 10, 2007.*
 TA-W-61,807; *Collins and Aikman, Plastic Division, On-Site Leased Workers of Spherion Co., Modern Professional, Farmington, NH: July 9, 2006.*
 TA-W-61,857; *Hypertronics Corporation, Hudson, MA: July 19, 2006.*
 TA-W-61,899; *Ortronics, Inc., A Subsidiary of Legrand, On-Site Workers From Defender Services, Dallas, NC: July 27, 2006.*
 TA-W-61,906; *The Intec Group, Inc., On-Site Leased Workers From Manpower, Morocco, IN: July 27, 2006.*
 TA-W-61,929; *Ametek, Inc., Dixon Division, On-Site Leased Workers From SOS Staffing Services, Grand Junction, CO: April 14, 2007.*
 TA-W-61,950; *Delphi Corporation, Automotive Holdings Group, Chassis Division, Kettering, OH: September 16, 2007.*
 TA-W-61,851; *Bosch Security Systems, Inc., Lancaster, PA: July 19, 2006.*
 TA-W-61,896; *Brookwood Furniture Co., Inc., Pontotoc, MS: July 20, 2006.*

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-61,798; *Ryerson, Inc., RCP Middletown Division, Middletown, OH: June 27, 2006.*
 TA-W-61,949; *Burke Mills, Inc., Valdesa, NC: July 25, 2006.*

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

TA-W-61,948; *Chassis Supply Partners, On-Site Leased Workers From Randstad, Columbia, TN.*

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations For Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA-W-61,930; *Astro American Chemical Co., Inc., Fountain Inn, SC.*
 TA-W-61,924; *Domtar Industries, Inc., Pulp Mill, Baileyville, Maine.*

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA-W-61,909; *Rotation Dynamics Corp., Also known as Rotadyne Molded Goods Division, Chicago, IL.*

TA-W-61,927; *C-Tech Industries, A Subsidiary of Alfred Karcher GMBH and Co., Calumet, MI.*

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA-W-61,481; *Continental Structural Plastics, Carey, OH.*

TA-W-61,643; *Ashley Manor, Inc., High Point, NC.*

TA-W-61,672; *Atwood Mobile Products, Inc., Division of Dura Automotive, Sellingsgrove, PA.*

TA-W-61,737; *Champion Parts, Inc., Carburetor Department, Hope, AR.*

TA-W-61,782; *Dent Manufacturing, Inc., Northampton, PA.*

TA-W-61,799; *Peres Pattern Company, Erie, PA.*

TA-W-61,824; *Diebold, Inc., Manufacturing Division, Hebron, OH.*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-61,725; *NCR Corporation, Global Operations, Peachtree City, GA.*

TA-W-61,761; *Brilliant Jewelers/MJJ, Inc., Diamond Sort Department, New York, NY.*

TA-W-61,812; *General Fasteners Company, Warehouse, Livonia, MI.*

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of August 13 through August 17, 2007. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 22, 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7-17105 Filed 8-29-07; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-61,808]

**Dako Colorado Eridan Pathology
Instrumentation Division Including On-
Site Leased Workers of Volt and
Aerotek, Ft. Collins, CO; Notice of
Revised Determination on
Reconsideration**

On July 23, 2007, the Department of Labor (Department) issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance applicable to the Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) petition filed by company officials on behalf of workers and former workers of Dako Colorado, Eridan Pathology Instrumentation Division, Ft. Collins, Colorado (subject firm). The Department's Notice of negative determination was published in the **Federal Register** on August 9, 2007 (72 FR 44866).

The negative determination stated the petition was denied because section 222(a)(2)(A)(I.C) and (I.C) of the Trade Act of 1975, as amended, was not satisfied. The investigation revealed that the subject firm did not import during the relevant period and that, following a shift of production to Denmark, which began in 2006, the subject firm does not anticipate importing to United States customers until 2008 or 2009.

The determination also stated that the subject workers are engaged in research, development and design work on bio-tech instruments, and are separately identifiable from other workers at the subject firm. The determination further stated that subject firm production ceased in October 2006 and the workers' separations are a continuation of the shift of production abroad.

By letter dated August 8, 2007, a company official requested administrative reconsideration of the Department's negative determination. The request for reconsideration alleged that following the shift of bio-tech instrumentation production abroad, there is likely to be an increase in imports by the subject firm and its customers of articles that are like or directly competitive with those produced by the subject firm.

During the reconsideration investigation, the official explained that Dako Colorado has two divisions, that the two divisions operate independently, and that the Eridan Pathology Instrumentation Division

produces bio-tech instrumentation. Therefore, the Department determines that the subject workers are engaged in the production of bio-tech instrumentation.

During the reconsideration investigation, the company official confirmed previously-submitted information and provided additional information regarding the subject firm's intention to import bio-tech instrumentation from Denmark to satisfy its domestic customers.

Based on the additional information obtained during the reconsideration investigation, the Department determines that section 222(a)(2)(A)(I.C) of the Trade Act of 1975, as amended, has been satisfied.

In accordance with section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over. Workers possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional information obtained during the reconsideration investigation, I determine that bio-tech instrumentation production at Dako Colorado, Eridan Pathology Instrumentation Division, Ft. Collins, Colorado shifted abroad and there is a likelihood of increased imports of articles like or directly competitive with those produced at the subject firm following the shift of production abroad.

In accordance with the provisions of the Act, I make the following certification:

All workers of Dako Colorado, Eridan Pathology Instrumentation Division, including on-site workers of Volt and Aerotek, Ft. Collins, Colorado, who became totally or partially separated from employment on or after July 9, 2006 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of August 2007.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E7-17177 Filed 8-29-07; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-61,324]

**Ford Motor Company Vehicle
Operations Division, Wixom Assembly
Plant, Wixom, MI; Notice of Revised
Determination on Reconsideration**

On July 10, 2007, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on July 17, 2007 (72 FR 39078).

The previous investigation initiated on April 18, 2007, resulting in a negative determination issued on May 7, 2007, was based on the finding that imports of vehicles like or directly competitive with the Lincoln Towncar did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on May 24, 2007 (72 FR 29182).

To support the request for reconsideration, the petitioner supplied additional information to supplement that which was gathered during the initial investigation. Upon further review of the information and a contact with the company official, it was revealed that the subject firm started shifting production of the Lincoln Towncar to Canada during the relevant period and that this shift contributed to the layoffs at the subject firm.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that there was a shift in production from the workers' firm or

subdivision to Canada of articles that are like or directly competitive with those produced by the subject firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

"All workers of Ford Motor Company, Vehicle Operations Division, Wixom Assembly Plant, Wixom, Michigan, who became totally or partially separated from employment on or after April 12, 2006, through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974."

Signed in Washington, DC, this 22nd day of August 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7-17178 Filed 8-29-07; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-61,530]

Track Corporation Including On-Site Leased Workers of Forge Industrial, Spring Lake, MI; Notice of Revised Determination on Reconsideration

On June 18, 2007, the Department of Labor (Department) issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance applicable to the Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) petition filed by a company official on behalf of workers and former workers of Track Corporation, Spring Lake, Michigan (subject firm). The Department's Notice of negative determination was published in the **Federal Register** on July 9, 2007 (72 FR 37266).

The subject firm produces seat adjusters for the automotive industry and public seating for stadiums and theaters. Workers are separately identifiable by product line. The TAA/ATAA petition was filed on behalf of workers engaged in the production of seat adjusters.

The negative determination was based on the Department's findings that the subject firm did not shift production of seat adjusters abroad and does not import seat adjusters. A survey revealed that the subject firm's major customer did not import seat adjusters during the relevant period.

By letter dated July 16, 2007, a company official requested administrative reconsideration of the Department's negative determination. The request for reconsideration stated that the subject firm's major customer replaced subject firm purchases with imported seat adjusters.

During the reconsideration investigation, the Department carefully reviewed the administrative file, contacted the company official for clarification, and contacted the subject firm's major customer for more information about its import purchases.

Previously-submitted information revealed that subject firm sales, production, and employment levels declined during the relevant period. Information obtained during the reconsideration investigation revealed that the subject firm's major customer began using foreign-made seat adjusters in 2006 and replacing subject firm purchases with foreign-made seat adjusters during 2007.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over. Workers possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the information obtained in the initial and reconsideration investigations, I determine that the subject workers are adversely-impacted by increased imports of articles like or directly competitive with those produced at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Track Corporation, including on-site workers of Forge Industrial, Spring Lake, Michigan, engaged in the production of seat adjusters, who became totally or partially separated from employment on or after May 16, 2006 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974."

Signed at Washington, DC, this 23rd day of August 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7-17179 Filed 8-29-07; 8:45 am]

BILLING CODE 4510-FN-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection consisting of National Archives Trust Fund (NATF) Order Forms for Genealogical Research in the National Archives. The NATF forms included in this information collection are: NATF 81, National Archives Order for Copies of Ship Passenger Arrival Records; NATF 82, National Archives Order of Copies of Census Schedules; NATF 83, National Archives Order for Copies of Eastern Cherokee Applications; NATF 84, National Archives Order for Copies of Land Entry Files; NATF 85, National Archives Order for Copies of Pension or Bounty Land Warrant Applications; and NATF 86, National Archives Order for Copies of Military Service Records. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before October 29, 2007 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740-6001; or faxed to 301-713-7409; or electronically mailed to tamee.fechhelm@nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301-837-1694, or fax number 301-713-7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), NARA invites the general public and other Federal agencies to comment on proposed

information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on all respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

Title: Order Forms for Genealogical Research in the National Archives.

OMB number: 3095-0027.

Agency form numbers: NATF Forms 81, 82, 83, 84, 85, and 86.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 42,515.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 7,086.

Abstract: Submission of requests on a form is necessary to handle in a timely fashion the volume of requests received for these records (2,479 per year for the NATF 81; 280 per year for the NATF 82; 526 per year for the NATF 83; 3,669 per year for the NATF 84; 17,716 per year for the NATF 85; and 17,845 per year for the NATF 86) and the need to obtain specific information from the researcher to search for the records sought. The form is printed on carbonless paper as a multi-part form to allow the researcher to retain a copy of his request and NARA to respond to the researcher on the results of the search or to bill for copies if the researcher wishes to order the copies. As a convenience, the form will allow researchers to provide credit card information to authorize billing and expedited mailing of the copies. You can also use Order Online! (http://www.archives.gov/research_room/obtain_copies/military_and_genealogy_order_forms.html) to complete the forms and order the copies.

Dated: August 24, 2007.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E7-17207 Filed 8-29-07; 8:45 am]

BILLING CODE 7515-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste and Materials; Meeting Notice

The Advisory Committee on Nuclear Waste and Materials (ACNW&M) will hold its 182nd meeting on September 18-20, 2007, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

Tuesday, September 18, 2007

10 a.m.-10:05 a.m.: Opening Remarks by the ACNW&M Chairman (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

10:05 a.m.-10:30 a.m.: Corrosion of Waste Package and Drip Shield Materials in a Repository Environment (Open)—An NRC staff representative from the Division of High-Level Waste and Repository Safety (DHLWRS) will brief the Committee on the staff's current understanding of key processes and associated uncertainties for estimating the long-term performance of waste package and drip shield materials under potential repository conditions.

10:30 a.m.-11 a.m.: Mechanisms for Estimating Juvenile Waste Package Failures (Open)—Representatives from the Center for Nuclear Waste Regulatory Analyses and from DHLWRS will update the Committee on the staff's current understanding of key processes and associated uncertainties that may contribute to juvenile failure of waste packages under potential repository conditions.

11 a.m.-11:30 a.m.: Dissolution Processes for Commercial Spent Nuclear Fuels in a Repository Environment (Open)—DHLWRS staff representatives will brief the Committee on the staff's current understanding of key processes and associated uncertainties for the dissolution of commercial spent nuclear fuels under potential repository conditions.

11:30 a.m.-12 p.m.: Discussion of the NRC Role in the International Committee on Radiological Protection (ICRP) (Open)—An NRC staff representative from the Office of Federal and State Materials and Environmental Management Programs (FSME) will brief the Committee on NRC's participation in recent activities of the ICRP.

1 p.m.-2 p.m.: Nuclear Energy Institute (NEI) Briefing on Low-Level

Radioactive Waste (LLW) Minimization Strategies (Open)—An NEI representative will brief the Committee on what nuclear power plants are doing to reduce the volume of Class B/C commercial LLW being generated.

2 p.m.-3 p.m.: NEI Executive Committee Views on Commercial LLW Management Issues (Open)—An NEI representative will brief the Committee on activities of a recently-formed NEI executive-level committee examining issues related to the generation, management, and disposal of commercial LLW.

3:15 p.m.-4 p.m.: Observations from ACNW Members and Staff on Recent Activities (Open)—The ACNW members and staff will present summaries of their: Visit to decommissioning sites in Pennsylvania (TMI plant) and Missouri (Hematite site); visit to the U.S. Department of Energy (DOE) Grand Junction site in Colorado; and attendance at the First Annual Radwaste Summit.

4 p.m.-5 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will discuss potential and proposed ACNW&M letter reports.

Wednesday, September 19, 2007

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACNW&M Chairman (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.-9:30 a.m.: Regulatory Guide Revisions (Open)—An NRC staff representative from the Office of Nuclear Regulatory Research will brief the Committee on the efforts to revise NRC's Regulatory Guides related to the licensing of nuclear facilities.

9:30 a.m.-12:30 p.m.: Preparation for Meeting with NRC Commissioners (Open)—The Committee will discuss topics and work on the slides in preparation for the ACNW&M briefing to the NRC Commissioners, scheduled for Wednesday, November 14, 2007.

1:30 p.m.-5 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will continue discussion of potential and proposed ACNW&M letter reports.

Thursday, September 20, 2007

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACNW&M Chairman (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.-12:30 p.m.: Discussion of ACNW&M Letter Reports (Open)—The Committee will continue discussion of potential and proposed ACNW&M letter reports.

1:30 p.m.–3 p.m.: *Semiannual Briefing by the Office of Federal and State Materials and Environmental Management Programs (FSME)* (Open)—The FSME Office and the Division Directors will brief the Committee on recent and future activities of interest within their respective programs.

3 p.m.–5 p.m.: *Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of ACNW&M activities and specific issues that were not completed during previous meetings, as time and availability of information permit. Discussions may include content of future letters and scope of future Committee Meetings.

Procedures for the conduct of and participation in ACNW&M meetings were published in the **Federal Register** on October 12, 2006 (71 FR 60196). In accordance with those procedures, oral or written views may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Dr. Antonio F. Dias (Telephone 301–415–6805), between 8:15 a.m. and 5 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the ACNW&M Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW&M office prior to the meeting. In view of the possibility that the schedule for ACNW&M meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Dias as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Dias.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at pdr@nrc.gov, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/>

[reading-rm/doc-collections/](http://www.nrc.gov/reading-rm/doc-collections/) (ACRS & ACNW Mtg schedules/agendas).

Video teleconferencing service is available for observing open sessions of ACNW&M meetings. Those wishing to use this service for observing ACNW&M meetings should contact Mr. Theron Brown, ACRS/ACNW&M Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: August 24, 2007.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–17173 Filed 8–29–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–365]

WTO Dispute Settlement Proceeding Regarding United States—Domestic Support and Export Credit Guarantees for Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that Brazil has requested consultations with the United States under the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”) regarding U.S. domestic support measures and export credit guarantees for agricultural products. That request may be found at <http://www.wto.org> contained in a document designated as WT/DS365/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the consultations, comments should be submitted on or before September 14, 2007 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to FR0705@ustr.eop.gov, with “Agricultural Subsidies (Brazil) (DS365)” in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–

3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

FOR FURTHER INFORMATION CONTACT: David Yocis, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–6150.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. In an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). If such a panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations approximately nine months after it is established.

Major Issues Raised by Brazil

In its request for consultations, Brazil alleges that the United States has provided support to domestic agricultural producers in excess of U.S. commitments with respect to the Aggregate Measurement of Support (“AMS”) as described in Article 6.2 of the WTO *Agreement on Agriculture* and the U.S. WTO schedule of commitments. According to Brazil, the United States has provided domestic support in excess of its AMS commitments in each of the years 1999, 2000, 2001, 2002, 2004, and 2005, in breach of Article 3.2 of the WTO *Agreement on Agriculture*. In addition, Brazil alleges that U.S. export credit guarantees under the GSM–102 program and the Supplier Credit Guarantee Program in respect of all agricultural products, whether or not included in the U.S. WTO schedule of agricultural export subsidy commitments, are export subsidies prohibited under Articles 3.1(a) and 3.2 of the WTO *Agreement on Subsidies and Countervailing Measures* and provided in violation of Articles 3.3, 8, 9.1 and 10.1 of the WTO *Agreement on Agriculture*.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i)

electronically, to FR0705@ustr.eop.gov, with "Agricultural Subsidies (Brazil) (DS365)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "Business Confidential" at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "Submitted in Confidence" at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of

the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-365, Brazil Ag Subsidies Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E7-17233 Filed 8-29-07; 8:45 am]

BILLING CODE 3190-W7-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of August 27, 2007:

A Closed Meeting will be held on Thursday, August 30, 2007 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Nazareth, as duty officer, voted to consider the items listed for the closed meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Thursday, August 30, 2007 will be:

Formal orders of investigations;
Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Resolution of litigation claims;
Other matters related to enforcement proceedings; and

An adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: August 27, 2007.

Nancy M. Morris,
Secretary.

[FR Doc. E7-17167 Filed 8-29-07; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56317; File No. SR-CBOE-2007-93]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE's Rules Related to Credit Default Basket Options

August 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 21, 2007, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the Exchange. The Exchange has designated the proposed rule change as one 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 Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules pertaining to Credit Default Basket Options ("CDBOs") in order to conform the Exchange's Succession Event confirmation process for CDBOs with that currently codified for single-name Credit Default Options ("CDOs").⁵ The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ See Securities Exchange Act Release No. 56114 (July 20, 2007), 72 FR 41367 (July 27, 2007) (SR-CBOE-2007-81).

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has received approval from the Commission to list and trade CDOs and CDBOs, which are different types of binary options, based on debt securities, that pay a fixed amount in the event a Credit Event is confirmed during the life of the option.⁶ Recently the Exchange amended CBOE Rule 29.4, *Adjustments*, in order to set out certain parameters that the Exchange intends to use for determining the applicable share to be allocated to a Successor Reference Entity if there is a CDO contract adjustment due to a Succession Event.⁷ The Exchange currently seeks to establish the same parameters for CDBOs.

CBOE Rule 29.4(b)(1) provides that, if the Exchange confirms a Succession Event in a Basket Component, that component may be replaced by one or more Basket Components ("Successor Basket Components") consisting of Successor Reference Entity(ies).⁸ Currently, the rule does not provide a framework for determining the allocation among Successor Basket Component(s). As it applies to CDOs, CBOE Rule 29.4(a)(1) makes clear that, if the Exchange confirms a Succession Event, the allocation among Successor

Reference Entities will be based on the applicable share of each Successor Reference Entity. In order to conform the Exchange's Succession Event confirmation process for CDBOs with the process used for CDOs, the Exchange first proposes to amend CBOE Rule 29.4(b)(1) to clarify that, if the Exchange confirms a Succession Event in a Basket Component, that component will be replaced by one or more Basket Components ("Successor Basket Component(s)") that have succeeded the original Basket Component based on the applicable share of each Successor Basket Component.⁹

Second, the Exchange proposes to specify how the "applicable share" would be calculated. Consistent with CDOs, the term "applicable share" would be a percentage amount used to determine the adjusted cash settlement amount applicable to each Successor Basket Component.¹⁰ As set out in the proposed revisions to CBOE Rule 29.4(b)(1)(i), in determining the applicable share, the Exchange as a general rule would allocate an equal share to each Successor Basket Component that has succeeded the original Basket Component as issuer and guarantor of (i) at least one Relevant Obligation and (ii) at least 25% of the principal amount of the original Basket Component's outstanding debt obligations other than non-recourse indebtedness. If no Successor Basket Component satisfies the "at least 25%" requirement and the original Basket Component does not survive following the Succession Event, an equal share will be allocated to the Successor Basket Component(s) that succeeded to the largest percentage of the original Basket Component's outstanding debt obligations other than non-recourse indebtedness.¹¹ These proposed "applicable share" parameters would

⁹ The Exchange also proposes to change the word "may" to "will" in CBOE Rule 29(b)(1) to provide additional clarity and certainty with respect to the Exchange's Succession Event confirmation process.

¹⁰ Every determination by the Exchange pursuant to CBOE Rule 29.4 is within the Exchange's sole discretion, is conclusive and binding on all holders and sellers, and is not subject to review. See CBOE Rule 29.4(e).

¹¹ If no Successor Basket Component satisfies the "at least 25%" requirement and the original Basket Component survives, then no Succession Event will be deemed to have occurred and the CDBO contract will not be adjusted.

As provided in CBOE Rule 29.4(b)(1)(ii), in the event of an adjustment for succession, the Exchange would specify the Reference Obligation, the recovery rate, and the basket weight of each Successor Basket Component, and the newly specified weight(s) would equal the weight of the predecessor Basket Component replaced by the Successor Basket Component(s).

override any contradictory provision in the terms of the Relevant Obligation(s).

As with CDOs, the Exchange believes that setting forth these same conforming parameters would clarify how the Exchange intends to administer the Succession Event confirmation process, thereby affording investors with additional clarity and certainty regarding the impact of a Succession Event on an outstanding CDBO contract. The Exchange also understands that these parameters would be substantially similar to and generally consistent with the practice in the over-the-counter market.

Finally, the Exchange is also proposing two technical changes to CBOE Rule 29.4. Specifically, the Exchange proposes to substitute the term "Reference Entity" with the term "Basket Component" in two places in the rule text. With respect to CDBOs, the term "Reference Entity" and "Basket Component" have identical meanings and are defined as the issuer or guarantor of one of the Reference Obligations that underlies a CDBO.¹²

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to national securities exchanges. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. As indicated above, the Exchange believes conforming the Succession Event confirmation process for CDBOs with the existing process for CDOs would afford investors additional clarity and certainty regarding the impact of a Succession Event on an outstanding CDBO contract.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

¹² See CBOE Rules 29.1(f) and (h).

¹³ 15 U.S.C. 78f(b)(5).

⁶ See Securities Exchange Act Release No. 55871 (June 6, 2007), 72 FR 32372 (June 12, 2007) (order approving SR-CBOE-2006-84 to list and trade CDOs); Securities Exchange Act Release No. 56275 (August 17, 2007) (order approving SR-CBOE-2007-26 to list and trade CDBOs).

⁷ See *supra* note 5. As to CDOs, a "Successor Reference Entity" and a "Succession Event" are defined in accordance with the terms of the Relevant Obligation(s). See CBOE Rule 29.4(a)(1)(i).

⁸ As to CDBOs, a "Successor Basket Component" and a "Succession Event" are defined in accordance with the terms of the Relevant Obligation(s). See CBOE Rule 29.4(b)(1)(i).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹⁴ and Rule 19b-4(f)(1) thereunder.¹⁵ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2007-93 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-93. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2007-93 and should be submitted on or before September 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56311; File No. SR-CBOE-2006-99]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Related to FLEX Options Trading

August 23, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 27, 2006, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 August 17, 2007, CBOE filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit

comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules to provide for the trading of Flexible Exchange Options ("FLEX Options")⁴ on the Exchange's new FLEX Hybrid Trading System platform and to make certain corresponding revisions to its existing open-outcry based FLEX RFQ System platform. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at CBOE, and at the Commission's Public Reference Room.⁵

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

i. Description of the FLEX Hybrid Trading System

Currently, FLEX Options are traded on the Exchange through an open-outcry-based, Request for Quotes ("RFQ") process (referred to herein as the "FLEX RFQ System" platform). The purpose of the proposed rule change is to amend Exchange rules to provide for an alternate framework to trade FLEX

⁴ FLEX Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

⁵ The Exchange notes that unrelated changes are being proposed to the text of Rule 24A.7 in a separate rule filing. See Securities Exchange Act Release No. 56191 (August 2, 2007), 72 FR 44894 (August 9, 2007) (SR-CBOE-2007-79). If that rule filing becomes effective before this instant rule filing, the Exchange intends to submit an amendment to reflect conforming changes to the text to Rules 24A.7 and 24A.8, as well as proposed Rules 24B.7 and 24B.8. Telephone conversation between Jennifer Lamie, Assistant General Counsel, CBOE, and Terri Evans, Special Counsel, Division of Market Regulation ("Division"), Commission on August 20, 2007.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(i).

¹⁵ 17 CFR 240.19b-4(f)(1).

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁷ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange replaced the proposed rule change in its entirety.

Options on the CBOE using a “hybrid” platform (referred to herein as the “FLEX Hybrid Trading System” platform or the “System”), which incorporates both open outcry and electronic trading functionality. Some key features of the new FLEX Hybrid Trading System platform are the following:

- *Method of Operation:* On the new hybrid platform, FLEX Option transactions could take place either through use of an open outcry RFQ process similar to the existing FLEX RFQ System process or through use of a new, Internet- and API-based, electronic RFQ platform. In addition, a new feature of the FLEX Hybrid Trading System will allow FLEX Orders to be entered and traded via an electronic book (the “Book”).

- *Access:* The new FLEX Hybrid Trading System platform will be available for the entry of RFQs, FLEX Quotes, and FLEX Orders, and the execution of trades resulting therefrom, of approved members. An approved member is any Exchange member that has been approved by the Exchange to use the FLEX Hybrid Trading System. This group of FLEX-eligible members are collectively referred to as “FLEX Traders.”⁶

- *Market-Maker Participation:* One category of FLEX Traders are FLEX Market-Makers, who will be appointed to one or more classes pursuant to proposed Rule 24B.9. As with the existing FLEX rules, there are two types of FLEX Market-Makers: A FLEX Appointed Market-Maker and a FLEX Qualified Market-Maker (unless specified, or unless the context requires otherwise, the term “FLEX Market-Maker” refers to both FLEX Appointed Market-Makers and FLEX Qualified Market-Makers). FLEX Market-Maker appointments and related market-making obligations, and changes proposed to the existing rule requirements, are discussed further below.

CBOE believes that enhancing its FLEX trading facilities to allow for a hybrid trading platform alternative is important to the Exchange’s efforts to create a market that provides members and investors interested in FLEX-type options with an improved but comparable alternative to the over-the-counter (“OTC”) market in customized options. By enhancing CBOE systems to allow for a FLEX Hybrid Trading System platform, market participants

will have greater flexibility in determining the means with which to execute their customized options in an exchange environment, thus making it a more attractive alternative to the OTC market. CBOE believes market participants benefit from being able to trade customized options in an exchange environment in several ways, including, but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of The Options Clearing Corporation (“OCC”) as issuer and guarantor of FLEX Options.

Given the design of FLEX Options to compete with the OTC market, the Exchange notes that the existing user base for trading FLEX Options includes both institutional investors and high net worth individuals. The Exchange also notes that, when the existing FLEX Rules were originally adopted in 1993, the Exchange put in place certain FLEX contract specification requirements that were designed to limit participation in FLEX Options to these types of sophisticated investors, rather than retail investors. These safeguards, which relate to minimum value size requirements, have been revised over time and will exist for FLEX Options traded on the proposed FLEX Hybrid Trading System. Thus, whether executed through the new electronic RFQ process or open outcry RFQ process (or through entering a FLEX Order to hit the new FLEX Book), the minimum value size requirements for a resulting FLEX transaction will be the same as currently exists today for trading on the existing FLEX RFQ System platform. Additionally, the minimum value size of FLEX Quotes that are entered by FLEX Traders in response to an underlying RFQ (and, correspondingly, the minimum value size of resting FLEX Orders (undecrement size) that are entered by FLEX Traders to provide liquidity for incoming FLEX Orders that hit the Book) will be the same as currently exists today for trading on the existing FLEX RFQ System platform. In maintaining these safeguards for trading on the proposed FLEX Hybrid Trading System, the Exchange is cognizant of the desire to continue to provide the requisite amount of investor protection that the safeguards were originally designed to achieve.

In addition, given the customized nature of FLEX Options, the sophistication of the target FLEX trading community, and the desire to effectively compete with the OTC market (which is

not subject to the same restrictions and requirements of exchange-based trading), CBOE has also designed its FLEX trading rules in a manner that is distinct from its trading rules for traditional options in order to create incentives for members and sophisticated investors to bring larger-sized orders to the Exchange, rather than the OTC market, and to provide deep liquid markets for investors in these customized products. As described below, these distinctions include: (i) Allowing for certain crossing participation entitlements and FLEX Appointed Market-Maker participation entitlements to be applied without yielding to other trading interest (including that of public customers, broker-dealers and FLEX Market-Makers) provided certain conditions are satisfied (including the requirements of Section 11(a)(1) of the Act⁷ and the rules promulgated thereunder); (ii) allowing for certain modified market making obligations; and (iii) applying separate position limit and exercise limit requirements to FLEX Options. These principles will be maintained in the proposed FLEX Hybrid Trading System, though certain modifications are being proposed.

For the reasons noted herein, CBOE believes that the proposed structure of its FLEX Hybrid Trading System platform is appropriate and reasonable and that it will provide market participants with additional flexibility to determine choice of venue that best comport with investors’ particular needs.

ii. Detailed Summary of Proposed Rule Change

As indicated above, under the proposed rules structure, the Exchange will have the choice to allow trading to occur in a FLEX Option class on the existing FLEX RFQ System platform or the proposed FLEX Hybrid Trading System platform. The rules governing the trading of FLEX Options on the existing FLEX RFQ System platform are contained, and will continue to be maintained, in Chapter XXIVA of the Exchange Rules. The proposed rules governing the trading of FLEX Options on the FLEX Hybrid Trading System platform will be reflected in new Chapter XXIVB. The Exchange currently intends to maintain and operate both the existing FLEX RFQ System platform and the new FLEX Hybrid Trading System platform and will determine which trading platform will be utilized on a class-by-class basis. These

⁶ In addition, as discussed further below, the Exchange will permit non-member users to be provided electronic access, through sponsoring members, to enter and execute orders on the FLEX Hybrid Trading System platform.

⁷ 15 U.S.C. 78k(a).

determinations will be announced to the membership via Regulatory Circular.

The new platform rules are generally modeled after and correspond with the existing FLEX RFQ System rules contained in Chapter XXIVA. Discussion of each of the proposed new rules, as well as various corresponding changes to the existing FLEX rules, follows.

(1). Proposed FLEX Hybrid Trading System Rules (Chapter XXIVB)

An introductory section to proposed Chapter XXIVB provides that transactions in FLEX Options may be effected on the FLEX Hybrid Trading System in accordance with the procedures in Chapter XXIVB, or via the existing FLEX trading platform in accordance with the procedures in Chapter XXIVA. As described above, determinations as to which trading platform and rules set will be applicable will be made by the Exchange on a class-by-class basis and will be announced to the membership via Regulatory Circular. The introductory language further explains that the rules in Chapters I through XIX and XXIV are also applicable to the trading of FLEX Options on the System, except as indicated at the end of each rule. To the extent the rules in Chapter XXIVB are inconsistent with other Exchange rules, the rules in Chapter XXIVB take precedence in relation to the trading of FLEX Options on the System.

(A). FLEX Hybrid Trading System Definitions (Proposed Rule 24B.1)

Proposed Rule 24B.1, *Definitions*, corresponds with existing Rule 24A.1. It also contains several new definitions necessary to accommodate the introduction of the FLEX Hybrid Trading System. For example, the term "FLEX Hybrid Trading System" shall mean the Exchange's trading platform that allows FLEX Traders to submit both electronic and open outcry RFQs, FLEX Quotes in response to such RFQs, and FLEX Orders into an electronic FLEX Book. The term "FLEX Trader" shall mean a FLEX-participating Exchange member who has been approved by the Exchange to trade on the FLEX Hybrid Trading System. The term "FLEX Order" shall mean a FLEX bid or offer entered by a FLEX Market-Maker or an order to purchase or order to sell a FLEX Option entered by a FLEX Trader, in each case into the Book. With respect to the electronic RFQ process, various terms defining the "RFQ Market," the "RFQ Response Period," the "RFQ Reaction Period," and "RFQ Order" are

defined.⁸ In addition, certain Trade Conditions that can be placed on an RFQ, an RFQ Order, or FLEX Order are identified.⁹

(B). Terms of FLEX Options (Proposed Rule 24B.4)

Proposed Rule 24B.4, *Terms of FLEX Options*, is similar to existing Rule 24A.4. Subparagraphs (a)(1) through (2) of Rule 24B.4, like subparagraphs (a)(1) through (2) of Rule 24A.4, provide that the variable terms of FLEX Options (such as the underlying security or index, put or call type, exercise-style, expiration date, and exercise price) will be established through the bidding and offering mechanics applicable to RFQs or the bidding and offer mechanics applicable to the Book. Other terms shall be the same as those that apply to Non-FLEX Options.

Subparagraph (a)(3) of Rule 24B.4, like subparagraph (a)(3) of Rule 24A.4, lists the additional categories of information that must be addressed by a member that initiates an RFQ (the "Submitting Member"), such as the type and form of quote sought and the length

⁸ The term "RFQ Market" shall mean the FLEX Quote bids or offers, or both, as applicable, entered in response to an electronic Request for Quotes and FLEX Orders resting in the electronic book, if any. The term "RFQ Response Period" shall mean the period of time during which FLEX Traders may provide FLEX Quotes in response to a Request for Quotes. The term "RFQ Reaction Period" shall mean the period of time during which a Submitting Member determines whether to accept or reject FLEX Quotes submitted in response to an electronic Request for Quotes. The term "RFQ Order" shall mean an order to purchase or order to sell FLEX Options entered by the Submitting Member during the RFQ Reaction Period. See proposed Rule 24B.1(r)-(u).

⁹ The following Trade Conditions will be available in the FLEX Hybrid Trading System for a FLEX Trader to choose from for RFQs, RFQ Orders, or FLEX Orders: (a) Fill-or-Kill, which is a condition to execute an RFQ Order or FLEX Order in its entirety as soon as it is represented or cancel it; (b) All-or-None, which is a condition to execute an RFQ Order or FLEX Order in its entirety or not at all; (c) Minimum Fill, which is a condition to execute an RFQ Order or FLEX Order in a minimum quantity or not at all; (d) Lots Of, which is a condition to execute an RFQ Order or FLEX Order in minimum lot sizes or not at all; (e) Intent to Cross, which is an RFQ condition indicating that a Submitting Member intends to cross or act as principal and receive a crossing participation entitlement; and (f) Hedge, which is an RFQ or FLEX Order condition contingent on trade execution in Non-FLEX Options or other Non-FLEX components (e.g., stock, futures, or other related instruments or interests). Trade Conditions, other than Intent to Cross or Hedge, will be inputted but not disclosed on the System. In addition, other than Fill-or-Kill orders, FLEX Orders will be designated by the System as "day orders" and, if unexecuted, will be cancelled at the close of each trade day. See proposed Rule 24B.1(x). In the future, the Exchange may determine to enable "good-'til-cancelled" functionality. The introduction of such functionality would be the subject of a separate rule filing.

of the RFQ Response Period.¹⁰ Additionally, the Submitting Member must indicate any Trade Condition placed on the RFQ (*i.e.*, an Intent to Cross or Hedge condition).¹¹ Given the proposed introduction of the new concept of the FLEX Book and the new concept of a FLEX Order that can be entered into the Book, proposed subparagraph (a)(4) lists the additional categories of information that must be included in a FLEX Order, such as the order type and form, and any Trade Condition, as applicable.

Subparagraph (a)(5) of Rule 24B.4 lists additional contract and transaction specifications that RFQs, FLEX Quotes responsive to RFQs, RFQ Orders, and FLEX Orders must satisfy. These additional specifications pertain first to maximum expiration terms and second to minimum value size requirements. The maximum expiration terms are the same as in the existing FLEX rules.¹² The minimum value size specifications are substantially similar to subparagraph (a)(4) of Rule 24A.4, though additional language has been added to clarify the applicability of the minimum value size requirements to FLEX Orders entered in the Book.¹³ As with the existing FLEX rules, minimum value size requirements for transactions resulting from electronic and open outcry RFQs and for responsive FLEX Quotes will be as follows:

- *Opening Transactions in a New Series:* The minimum value size for an opening transaction resulting from an RFQ in any FLEX series in which there is no open interest at the time the RFQ is submitted shall be: (i) The lesser of 250 contracts or the number of contracts overlying \$1 million in the underlying securities in the case of FLEX Equity

¹⁰ The length of the RFQ Response Period interval is defined by the Submitting Member, provided that the length of the interval must fall within the time ranges established by the appropriate Procedure Committee on a class-by-class basis for electronic RFQs or open outcry RFQs. Such time cannot be less than three seconds. See proposed Rule 24B.4(a)(3)(iii).

¹¹ At the conclusion of an RFQ, the Submitting Member may enter an RFQ Order to buy or sell a specified size. An RFQ Order shall contain the same transaction specifications as the related RFQ plus any additional Trade Condition(s), if applicable, that relate to the particular order and its size. See proposed Rule 24B.4(a)(3)(iv) and note 9, *supra*.

¹² Specifically, for FLEX Equity Options, the maximum term is three years; provided, however, that the Submitting Member may request a longer term to a maximum of five years. For FLEX Index Options, the maximum term is five years; provided, however, that a Submitting Member may request a longer term to a maximum of ten years. See existing Rule 24A.4(a)(4) and proposed Rule 24B.4(a)(5).

¹³ As discussed above, the Exchange notes that the minimum value size requirements were put in place to limit participation in FLEX Options to sophisticated, high-net-worth investors, including institutional investors, rather than retail investors.

Options; and (ii) \$10 million Underlying Equivalent Value in the case of FLEX Index Options.

- *Transactions in Existing Series:* The minimum value size for a transaction in any currently-opened FLEX series resulting from an RFQ shall be: (i) 100 contracts in the case of opening transactions in FLEX Equity Options and 25 contracts in the case of closing transactions in FLEX Equity Options; and (ii) \$1 million Underlying Equivalent Value in the case of both opening and closing transactions in FLEX Index Options; or (iii) in either case, the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less.

- *FLEX Quote Sizes:* The minimum value size for FLEX Quotes responsive to an RFQ shall be: (i) 25 contracts in the case of FLEX Equity Options; and (ii) \$1 million Underlying Equivalent Value in the case of FLEX Index Options; or (iii) in either case, the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. However, FLEX Quotes of FLEX Index Appointed Market-Makers must be for at least \$10 million Underlying Equivalent Value or the dollar amount indicated in the RFQ, whichever is less.

There will be similar minimum value size requirements that apply to transactions that occur in the FLEX Book. Specifically, a transaction resulting from a FLEX Order that seeks liquidity by trading against ("hitting") the Book must satisfy the same minimum value size requirements described above that are applicable to RFQ transactions. Conversely, a FLEX Order that provides liquidity by resting in the Book must satisfy the same minimum value size requirements described above that are applicable to FLEX Quotes. Thus, the minimum value size requirements for FLEX Orders entered into the Book will be as follows:

- *Opening Transactions in a New Series:* The minimum value size for an opening transaction resulting from a FLEX Order entered to hit the FLEX Book in any FLEX series in which there is no open interest at the time the FLEX Order is submitted shall be: (i) The lesser of 250 contracts or the number of contracts overlying \$1 million in the underlying securities in the case of FLEX Equity Options; and (ii) \$10 million Underlying Equivalent Value in the case of FLEX Index Options.

- *Transactions in Existing Series:* The minimum value size for a transaction in any currently-opened FLEX series resulting from a FLEX Order entered to hit the FLEX Book shall be: (i) 100 contracts in the case of opening

transactions in FLEX Equity Options and 25 contracts in the case of closing transactions in FLEX Equity Options; and (ii) \$1 million Underlying Equivalent Value in the case of both opening and closing transactions in FLEX Index Options; or (iii) in either case, the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less.

- *Resting FLEX Order Sizes:* The minimum value size for FLEX Orders (undecrement size) entered to rest in the FLEX Book shall be: (i) 25 contracts in the case of FLEX Equity Options; and (ii) \$1 million Underlying Equivalent Value in the case of FLEX Index Options; or (iii) in either case, the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. With respect to FLEX Index Appointed Market-Makers, FLEX Orders (undecrement size) must be for at least \$10 million Underlying Equivalent Value.

Subparagraph (a)(5)(iv) of the proposed rule also includes a new requirement that a FLEX Appointed Market-Maker¹⁴ has an obligation to respond to a certain percentage of electronic RFQs. This percentage will be determined by the appropriate Procedure Committee on a class-by-class basis, but will not be less than 80%. As with the existing FLEX rules, a FLEX Appointed Market-Maker will continue to be required to respond to every open-outcry RFQ in a class of FLEX Options to which it is appointed and trading in open outcry.

Paragraph (b), pertaining to special terms for FLEX Index Options, and paragraph (c), pertaining to special terms for FLEX Equity Options, in proposed Rule 24B.4 are the same as the corresponding paragraphs in existing Rule 24A.4.

(C). FLEX Trading Procedures and Principles (Proposed Rule 24B.5)

Proposed Rule 24B.5, *FLEX Trading Procedures and Principles*, prescribes in some detail the trading procedures that apply to the FLEX Hybrid Trading System. It describes the RFQ processes for electronic and open-outcry trading, the FLEX Book, contract acceptance, priority of bids and offers, and applicable trading increments.

(a). Electronic and Open Outcry RFQ Processes

Paragraph (a) describes the RFQ process, which may be used at any time,

but is required to initiate a FLEX transaction when there are no FLEX Orders currently resting in the Book in the particular FLEX Options series to be traded. The RFQ process may be conducted electronically through the System or in open outcry as described below.

(aa). Electronic RFQ Process

Subparagraph (a)(1) of proposed Rule 24B.5 describes the electronic RFQ process. Upon receipt of an RFQ that satisfies the requirements of proposed Rule 24B.4, the System will cause the terms and specifications of the RFQ to be communicated to FLEX Traders. FLEX Traders, including FLEX Market-Makers and the Submitting Member, may then enter FLEX Quotes that are responsive to the RFQ during the RFQ Response Period.¹⁵ FLEX Quotes may be entered, modified, or withdrawn at any point during the RFQ Response Period; provided, however, any FLEX Appointed Market-Makers must meet certain FLEX Quote maintenance obligations. During the RFQ Response Period, the System will intermittently calculate and disseminate to all FLEX Traders the aggregate depth of the market at each price level considering FLEX Quote responses and FLEX Orders resting in the Book (referred to as the expected "RFQ Market").

At the end of the RFQ Response Period, the System will calculate and disseminate to all FLEX Traders the final RFQ Market. The Submitting Member will then have a brief interval of time to promptly accept or reject the RFQ Market, provided that such acceptance or rejection must occur during the "RFQ Reaction Period."¹⁶ During the RFQ Reaction Period, FLEX Quotes and FLEX Orders in the System cannot be modified or withdrawn.¹⁷

In the scenario where a Submitting Member has not indicated an "intent to cross" in the RFQ request, the Submitting Member can determine to do the following during the RFQ Reaction Period: (i) Trade against the bids and offers (but not both) by submitting an RFQ Order, in which case the resulting transaction will occur at a single "BBO

¹⁵ However, FLEX Quotes may not be entered for the account of a options market maker from another options exchange. See proposed Rule 24B.5(a)(1)(ii)(A).

¹⁶ The length of the RFQ Reaction Period interval will be established by the appropriate Procedure Committee on a class-by-class basis and will not be more than 30 seconds. Failure to promptly accept the bids or offers equates to a rejection. See proposed Rule 24B.5(a)(1)(iii)(A).

¹⁷ FLEX Orders can be entered during the RFQ Reaction Period, but will not be included in the RFQ Market calculation. See proposed Rule 24B.5(a)(1)(iii)(B)(I).

¹⁴ FLEX Appointed Market-Makers and their related market-making obligations are described in proposed Rules 24B.4(a)(5)(iv) and 24B.9.

clearing price" that does not violate the RFQ Order's limit price, if any;¹⁸ or (ii) reject the RFQ or let it expire.¹⁹

If the Submitting Member rejects the RFQ Market or to the extent the RFQ Market size exceeds the Submitting Member's FLEX transaction size, the System will automatically execute any remaining FLEX Quotes and FLEX Orders that are marketable against each other at a single clearing price. Thereafter: (i) If there is a Book available, any further remaining balance of the FLEX Quotes will be automatically entered into the Book unless the FLEX Trader that entered the FLEX Quote has indicated that the FLEX Quote is to be automatically cancelled if not traded;²⁰ or (ii) if there is no Book

available, any remaining balance of the FLEX Quotes will be automatically cancelled.

Once the RFQ Reaction Period concludes and applicable allocations are completed, FLEX Traders can enter new FLEX Orders or cancel existing FLEX Orders in the Book at any time. If the Book is available, the Submitting Member and other FLEX Traders can also determine to enter FLEX Orders in the Book at the conclusion of the RFQ process.

The following examples illustrate the process:

- Assume the RFQ Market is bid 1000 contracts at \$1.00 and offered 1000 contracts at \$1.20, 1200 contracts at \$1.21, and 1500 contracts at \$1.23. Also assume that the FLEX Book is not activated in the particular class. If the Submitting Member submits an agency RFQ Order to buy 1500 contracts, the order will trade at a BBO clearing price of \$1.21. The priority among the interest represented on the offer-side of the RFQ Market will be first to the FLEX Quotes offered at \$1.20 and second to FLEX Quotes offered at \$1.21. Allocation among multiple FLEX Quotes represented at \$1.21 shall be first to any FLEX Appointed Market-Maker(s) with a participation entitlement, then to FLEX Quotes for the account of public customers and non-member broker-dealers based on time priority, then to all other FLEX Quotes based on time priority. The remaining balance of the FLEX Quotes entered in response to the RFQ will be automatically cancelled.

- Assume the RFQ Market is bid 1000 contracts at \$1.21 and offered 1000 contracts at \$1.20, 1200 contracts at \$1.21, and 1500 contracts at \$1.23. Thus, the bids and offers that make up the RFQ Market are "crossed." Also assume that each of the FLEX Traders that entered responses elected to have any remaining balance on their FLEX Quotes automatically booked. If the Submitting Member submits an agency RFQ Order to buy 1000 contracts, the order will trade at a BBO clearing price of \$1.21 and the 1000 contract bid will also trade against the offers at a BBO clearing price of \$1.21. (The particular allocation algorithm among the interest represented on the offer-side of the RFQ Market is as described in the first example, assuming there are no FLEX Orders in the Book.) Coming out of the RFQ auction, the Book will also display offers of 200 contracts at \$1.21 and 1500 contracts at \$1.23.

requirements for FLEX Orders entered to rest in the Book. Once entered in the Book, a FLEX Quote will be treated the same as other FLEX Orders. See proposed Rules 24B.4(a)(5)(iv) and 24B.5(a)(1)(iii)(F).

- Assume the RFQ Market is bid 1000 contracts at \$1.21 and offered 1000 contracts at \$1.20, 500 contracts at \$1.21, and 1500 contracts at \$1.23. Thus, the bids and offers that make up the RFQ Market are "crossed." Also assume that the bid consists in part of a 100-contract FLEX Order that was resting in the Book prior to the initiation of the RFQ and that each of the FLEX Traders that entered responses elected to have any remaining balance on its FLEX Quote automatically booked. If the Submitting Member submits a public customer RFQ Order to buy 1000 contracts at \$1.21, the 100 contract FLEX Order, the 1000 contract RFQ Order, and 400 contracts of the remaining 900 contract bid will trade against the offers at a BBO clearing price of \$1.21.²¹ (The particular allocation algorithm among the interest represented on the offer-side of the RFQ Market is as described in the first example, assuming there are no FLEX Orders in the Book.) Coming out of the RFQ auction, the Book will also display a bid of 500 contracts at \$1.21 and an offer of 1500 contracts at \$1.23.

- Assume the RFQ Market is bid 1000 contracts at \$1.00 and offered 1000 contracts at \$1.20 and the Submitting Member wants to trade 200 contracts in a FLEX Equity series that has a minimum value size requirement of 100 contracts. Also assume the FLEX Book is activated in the particular class. During the RFQ Reaction Period, the Submitting Member enters an agency RFQ Order to buy 200 contracts at \$1.15. Because the best offer is \$1.20, no trade will occur. The RFQ Order and the FLEX Quotes entered in response to the RFQ will be booked (assuming the Submitting Member and each of the FLEX Traders that entered responses elected to have any remaining balance on their FLEX Quotes automatically booked). Coming out of the RFQ auction, the Book will display a market that is bid 200 contracts at \$1.15 and offered 1000 contracts at \$1.20.

In the scenario where the Submitting Member has indicated an "intent to cross" in its RFQ request, during the RFQ Reaction Period the Submitting Member can determine to: (i) Enter an RFQ Order to trade with the bids or offers and be automatically allocated a crossing participation entitlement to trade with the RFQ Order at the BBO

¹⁸ If the Submitting Member chooses to trade, the RFQ Order it sends will be eligible to trade with the FLEX Quotes and FLEX Orders at a single price that will leave bids and offers which cannot trade with each other ("BBO clearing price"). In determining the priority of FLEX Quotes and FLEX Orders to be traded, the System gives priority to FLEX Quotes and FLEX Orders whose price is better than the BBO clearing price, then to FLEX Quotes and FLEX Orders at the BBO clearing price. The allocation among multiple FLEX Quotes and FLEX Orders that are priced at the BBO clearing price will be as follows: (i) Any FLEX Quotes that are subject to a FLEX Appointed Market-Maker participation entitlement will have priority to participate in the execution; (ii) then FLEX Orders resting in the electronic book based on the Book priority algorithm; (iii) then FLEX Quotes for the account of public customers and non-member broker-dealers based on time priority; and (iv) then all other FLEX Quotes based on time priority. In the event an RFQ Market is locked or crossed (e.g., the best bid is \$1.25 and the best offer is \$1.20), allocation at the BBO clearing price on the same side of the transaction as the RFQ Order shall be as follows: (i) FLEX Orders resting in the electronic book will have priority to participate in the execution based on time priority; (ii) then, if applicable, an RFQ Order for the account of a public customer or non-member broker-dealer, then any FLEX Quotes that are subject to a FLEX Appointed Market-Maker participation entitlement; (iii) then FLEX Quotes for the account of public customers and non-member broker-dealers based on time priority; (iv) then, if applicable, an RFQ Order for the account of a member, then any FLEX Quotes that are subject to a FLEX Appointed Market-Maker participation entitlement; and (v) then all other FLEX Quotes based on time priority. The System will then enter any remaining balance of the incoming RFQ Order in the Book (if available), unless the Submitting Member has indicated that the balance of the RFQ Order is to be automatically cancelled if it is not traded. An RFQ Order that has been decremented as part of an electronic RFQ is eligible to be entered into the Book (if available) even though the balance that remains may be below the minimum size requirements for FLEX Orders entered to rest in the Book. Once entered in the Book, an RFQ Order will be treated the same as other FLEX Orders. See proposed Rules 24B.4(a)(5)(iv) and 24B.5(a)(1)(iii)(C).

¹⁹ Consistent with the existing FLEX rules, a Submitting Member has no obligation to accept any FLEX bid or offer. See proposed Rule 24B.5(a)(1)(iii)(E) and existing Rule 24A.5(c)(iv).

²⁰ A FLEX Quote that has been decremented as part of an electronic RFQ is eligible to be entered into the Book (if available) even though the balance that remains may be below the minimum size

²¹ If the RFQ Order is submitted for the account of a member, the RFQ Order will trade after the FLEX Order and any FLEX Quotes for the account of public customers and non-member broker-dealers. See note 18, *supra*

clearing price;²² or (ii) reject the RFQ or let it expire.

If the Submitting Member enters an RFQ Order, the System will immediately execute the RFQ Order to the extent marketable at the BBO clearing price, with the Submitting Member executing an amount up to the applicable crossing participation entitlement at the BBO clearing price after yielding to certain trading interests.²³ Thereafter, any remaining balance of the RFQ Order will be exposed in the Book²⁴ for at least the minimum Crossing Exposure Period.²⁵ During this time, other FLEX Traders can trade against the order. At the end of the Crossing Exposure Period, the Submitting Member may enter a contra-side order to trade any remaining balance of the RFQ Order. The Submitting Member must, however, enter a contra-side order when necessary to satisfy the minimum value size requirements for the FLEX transaction.²⁶

The following examples illustrate this process:

²² The existing FLEX rules allow for the Submitting Member to execute a certain portion of a FLEX Order where the Submitting Member has indicated an intention to cross or act as principal (the "crossing participation entitlement"). See existing Rule 24A.5(e). The same concept will apply under the proposed FLEX Hybrid Rules, though changes to the applicable participation entitlement percentages are being proposed. In addition, the Exchange is proposing to extend the use of crossing participation entitlements to solicitations. See proposed Rule 24B.5(d). The particular participation entitlements are discussed further below.

²³ See note 18, *supra*, for description of the BBO clearing price. In determining the priority of FLEX Quotes and FLEX Orders to be traded when the Submitting Member has indicated an "intent to cross," the System gives priority to FLEX Quotes and FLEX Orders whose price is better than the BBO clearing price, then to FLEX Quotes and FLEX Orders at the BBO clearing price. The allocation among multiple FLEX Quotes and FLEX Orders that are priced at the BBO clearing price will be as follows: (i) FLEX Orders resting in the electronic book will have priority to participate in the execution; (ii) then FLEX Quotes for the account of public customers and non-member broker-dealers based on time priority; (iii) then the crossing participation entitlement; (iv) then any FLEX Quotes that are subject to a FLEX Appointed Market-Maker participation entitlement; and (v) then all other FLEX Quotes based on time priority. See proposed Rule 24B.5(a)(1)(iii)(D). The FLEX Appointed Market-Maker participation entitlement when combined with a crossing participation entitlement will collectively not exceed 40% of the incoming RFQ Order's original size. See proposed Rule 24B.5(d)(2).

²⁴ If there is no Book available, the System will expose the remaining balance of the incoming RFQ Order, if any, so other FLEX Traders can trade against the order. See proposed Rule 24B.5(a)(1)(iii)(D)(IV).

²⁵ The length of this Crossing Exposure Period shall be determined by the appropriate Procedure Committee on a class-by-class basis and shall not be less than three seconds. See *id.*

²⁶ See proposed Rule 24B.4(a)(5)(ii) and (iii), and proposed Rule 24B.5(a)(1)(iii)(D)(IV).

- Assume the RFQ Market is bid 1000 contracts at \$1.00 and offered 1000 contracts at \$1.20, 1200 contracts at \$1.21 and 1500 contracts at \$1.23. Also assume that the Submitting Member marked the RFQ with an "intent to cross" flag, that the applicable crossing entitlement is 40%, and that the FLEX Book is not activated in the particular class. If the Submitting Member submits an agency market RFQ Order to buy 200 contracts, the order will trade at a BBO clearing price of \$1.20, with the Submitting Member being automatically allocated 80 contracts (40% of 200) on the trade after yielding to any FLEX Quotes for the account of public customers and non-member broker-dealers. (The particular allocation algorithm applicable to any remaining contracts is as described in footnote 23.) The remaining balance of the FLEX Quotes entered in response to the RFQ will be automatically cancelled.

- Assume the RFQ Market is bid 1000 contracts at \$1.21 and offered 1000 contracts at \$1.20, 1200 contracts at \$1.21, and 1500 contracts at \$1.23. Thus, the bids and offers that make up the RFQ Market are "crossed." Also assume that the Submitting Member marked the RFQ with an "intent to cross" flag, that the applicable crossing entitlement is 40%, that the offer consists in part of a 100 contract FLEX Order at \$1.20 that was resting in the Book prior to the initiation of the RFQ, and that each of the FLEX Traders that entered responses were FLEX Market-Makers that elected to have any remaining balance on their FLEX Quotes automatically booked. If the Submitting Member submits an agency market RFQ Order to buy 200 contracts, the order will trade at a BBO clearing price of \$1.21, with the resting FLEX Order trading 100 contracts, the Submitting Member trading 80 contracts (40% of 200), and the remaining 20 trading against the other interest represented in the offer. The 1000 contract bid will also trade against the offers at the BBO clearing price of \$1.21. (The particular allocation algorithm among the remaining interest represented in the offer-side of the RFQ Market is as described in footnote 23.) Coming out of the RFQ auction, the Book will also display offers of 1000 contracts at \$1.21 and 1500 contracts at \$1.23.

- Assume a scenario where there is an RFQ Market of \$1.00–\$1.20, the Submitting Member wants to trade 200 contracts in a FLEX Equity series that has a minimum value size requirement of 100 contracts, and a crossing participation entitlement of 40%. Also assume the FLEX Book is activated in the particular class. During the RFQ

Reaction Period, the Submitting Member may enter an agency RFQ Order to buy 200 contracts at \$1.15. The Submitting Member will immediately cross 80 contracts (40% of 200) and the balance of the order will be entered in the Book. After waiting the required exposure time (say three seconds), the Submitting Member must enter a contra-side order for at least 20 contracts if no one else has traded against the remaining balance of the RFQ Order (in order to satisfy the minimum value size requirement of 100 contracts).

The Exchange notes that the Submitting Member must mark its RFQ with an "intent to cross" flag at the time the RFQ is originally submitted to be automatically allocated the applicable crossing participation entitlement for facilitation and solicitation transactions. If the RFQ is not flagged in this manner, the Submitting Member will not be automatically allocated the entitlement.

The Exchange notes that a Submitting Member also has the ability to enter an agency or proprietary FLEX Quote in response to the Submitting Member's own RFQ. Such a FLEX Quote will be treated the same as any other FLEX Quote and subject to the priority allocation algorithm described above.

Finally, the Exchange notes that all electronic RFQ transactions must be in compliance with Section 11(a)(1) of the Act²⁷ and the rules promulgated thereunder. Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively "proprietary" orders) unless an exception applies. In this regard, the Exchange is proposing that proprietary FLEX Quotes, RFQ Orders, and a crossing participation entitlements may rely on the exception found in paragraph (G) of Section 11(a)(1) of the Act²⁸ and Rule 11a1–1(T) thereunder (the "G" exemption"),²⁹ because within the System such trading interest would yield to same-priced FLEX Orders in the Book and same-priced FLEX Quotes for the account of public customers and non-member broker-dealers, in compliance with the "G" exception requirement to yield priority to any bid (offer) at the same price for the account of a person who is not, or is not associated with, a member (a "non-member"). A member that relies on the "G" exemption would also have

²⁷ 15 U.S.C. 78k(a).

²⁸ 15 U.S.C. 78k(a)(1)(G).

²⁹ 17 CFR 240.11a1–1(T).

to satisfy the other requirements of the "G" exemption.

(bb). Open Outcry RFQ Process

Subparagraph (a)(2) of proposed Rule 24B.5 describes the open outcry RFQ process, which is similar to the process that exists today with a few primary distinctions.³⁰ To initiate a FLEX transaction using the open-outcry RFQ process, a Submitting Member shall submit an RFQ to the FLEX Official.³¹ After providing an RFQ in proper form to the FLEX Official, the Submitting Member shall immediately announce the terms and specifications of the RFQ to the trading crowd for the FLEX Option by public outcry. FLEX Traders present in the trading crowd may provide the Submitting Member with responsive FLEX Quotes by public outcry during the RFQ Response Period.³² These FLEX Quotes may be entered, modified, or withdrawn at any point during the RFQ Response Period; provided, however, FLEX Appointed Market-Makers must meet certain FLEX Quote maintenance obligations.³³ At the

expiration of the RFQ Response Period, the Submitting Member will identify the BBO considering responsive FLEX Quotes and, if applicable, FLEX Orders resting in the Book. The Submitting Member will announce the BBO to the FLEX Traders in the trading crowd.

If the Submitting Member does not intend to cross or act as principal with respect to any part of the FLEX trade, the Submitting Member shall promptly accept or reject the BBO; provided, however, if a Submitting Member either rejects the BBO or is given a BBO for less than the entire size requested, all FLEX Traders in the trading crowd other than the Submitting Member will have an opportunity during the BBO Improvement Interval in which to match or improve, as applicable, the BBO.³⁴ At the expiration of any BBO Improvement Interval, the Submitting Member must promptly accept or reject the BBO(s).

If the Submitting Member indicates an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Submitting Member must announce to the trading crowd the price at which the Submitting Member expects to trade. In these circumstances, the Submitting Member may participate with all other FLEX Traders present in the trading crowd in attempting to improve or match the BBO during the BBO Improvement Interval. At the expiration of the BBO Improvement Interval, the Submitting Member must promptly accept or reject the BBO(s).

As with the existing rules, the Submitting Member has no obligation to accept any FLEX bid or offer. And, whenever following the completion of the RFQ Response Period or BBO Improvement Interval, as applicable, the Submitting Member rejects the BBO or the BBO size exceeds the FLEX transaction size indicated in the Request for Quotes, FLEX Traders present in the trading crowd may accept the unfilled balance of the BBO. Such acceptance must occur by public outcry promptly following the Submitting Member's determination whether to accept or reject the BBO or at the expiration of any applicable BBO Improvement Interval. Rejection of the open-outcry BBO(s) or failure to promptly to accept the BBO(s) by the Submitting Member or FLEX Traders, as applicable, results in expiration of the BBO(s) and the RFQ.

For open-outcry RFQs, the highest bid (lowest offer) will have priority. Subject to the requirements of Section 11(a)(1) discussed below, at the same price, the Submitting Member will allocate the RFQ Order in accordance with the following algorithm. First, to the extent the Submitting Member is entitled to a crossing participation entitlement, if any, the Submitting Member has priority to trade the applicable entitlement percentage. Next, to the extent a FLEX Appointed Market-Maker(s) is entitled to a participation entitlement, if any, the FLEX Appointed Market-Maker(s) has priority to trade the applicable entitlement amount. In any event, the FLEX Appointed Market-Maker participation entitlement when combined with a crossing participation entitlement will collectively not exceed 40% of the incoming order's original size.³⁵ Thereafter, FLEX Quotes submitted in open outcry in response to the open-outcry RFQ will trade based on time priority; provided, however, where two or more best bid (offer) FLEX Quotes are submitted in open outcry at the same time and same price or in the event the Submitting Member cannot reasonably determine the sequence in which the open-outcry bid (offer) FLEX Quotes were made, priority will be apportioned equally among the open-outcry bids (offers). Next, to the extent there is any remaining balance, same priced FLEX Orders resting in the Book will trade based on the Book priority algorithm.

If the RFQ Order being represented by the Submitting Member in open-outcry has an exemption from Section 11(a), the RFQ Order will have priority over all other same-priced bids (offers) on the same side of the market. After executing the RFQ Order (or if the Submitting Member determines not to trade), any unfilled balance of the BBO may be executed by FLEX Traders in the trading crowd based on the priority principles described above.

All open-outcry RFQ transactions must be in compliance with Section 11(a)(1) and the rules promulgated thereunder. In this regard, a bid (offer) submitted on behalf of the proprietary account of a member that is relying on the "G" exemption must yield priority to any bid (offer) at the same price that is represented in the Book (and all FLEX Quotes that have priority over the Book) in order to ensure that the proprietary order yields priority to non-member orders. A member that relies on the "G" exemption would also have to satisfy the other requirements of the "G" exemption. In the event a Submitting

³⁰ The primary distinctions between the trading mechanics applicable to the existing FLEX open-outcry RFQ process and the trading mechanics applicable to the proposed FLEX Hybrid Trading System open-outcry RFQ process are that, under the latter process, the Submitting Member will be responsible for announcing the terms and specifications of the RFQ to the trading crowd by public outcry, receiving FLEX Quotes responsive to the RFQ and, at the conclusion of the RFQ Response Period, announcing the BBO to the trading crowd (whereas under the existing process, the FLEX Post Official communicates the RFQ to FLEX-participating members over facilities maintained by the Exchange, FLEX Quotes responsive to the RFQ may be entered at the FLEX post, and the BBO is visibly displayed at the post and over the network). Compare proposed Rule 24B.5(a)(2)(i)(B), (ii)(A), and (ii)(B) to existing Rule 24A.5(a)(ii), (b)(i), and (b)(iii). There are also differences in the applicable priority provisions that will take into consideration the priority of the electronic book (which is not applicable under the existing process) and the priority of two bids submitted in open outcry at the same time and same price (which will be apportioned equally as compared to the existing practice of affording priority to the FLEX Appointed or Qualified Market-Makers) as well as modify the applicable crossing participation entitlements. Compare proposed Rule 24B.5(a)(2)(v) and (d) to existing Rule 24A.5(e) and (f); see also note 22, *supra*.

³¹ Under the proposed rules, the Exchange may designate an employee or independent contractor to act as a FLEX Official and designate other qualified employees or independent contractors to assist the FLEX Official as the need arises. The FLEX Official shall perform the functions set out in proposed Rule 24B.14, which include reviewing the conformity of open-outcry RFQs to the terms and specifications contained in proposed Rule 24B.4.

³² As with electronic RFQs, the length of the RFQ Response Period interval for open-outcry transactions is defined by the Submitting Member, provided that the length of the interval must fall within the time ranges established by the appropriate Procedure Committee on a class-by-class basis and such time cannot be less than three seconds. See proposed Rule 24B.4(a)(3)(iii).

³³ See proposed Rules 24B.4(a)(5)(iv) and 24B.9.

³⁴ The "BBO Improvement Interval" refers to a period of time during which FLEX Traders in the trading crowd may submit FLEX Quotes to meet or improve the BBO established during the RFQ Response Period. See proposed Rule 24B.1(b).

³⁵ See proposed Rule 24B.5(d)(2).

Member is asserting a crossing participation entitlement on behalf of a proprietary order that must yield priority in reliance on the "G" exemption and a FLEX Appointed Market-Maker is asserting a participation entitlement, the Submitting Member's crossing participation entitlement to the remaining balance of the original order, when combined with the FLEX Appointed Market-Makers guaranteed participation, shall not exceed 40% of the original order.³⁶ However, provided the "G" exemption requirements are satisfied, nothing prohibits a Submitting Member or FLEX Appointed Market-Maker from trading more than its applicable entitlement if other FLEX Traders in the crowd do not choose to trade the remaining portion of the order.³⁷

(b). The FLEX Book & FLEX Orders

As indicated above, the FLEX Book and FLEX Orders are new concepts being introduced through the FLEX Hybrid Trading System platform. Paragraph (b) of proposed Rule 24B.5 describes the FLEX Book. The determination of whether to make the FLEX Book functionality available will be made by the Exchange on a class-by-class basis.

Utilization of the new FLEX Order functionality is contingent upon the FLEX Book being made available. So, if the Book is not made available, the FLEX Order functionality will not apply and instead the FLEX Hybrid Trading System platform functionality will be limited to the electronic and open-outcry RFQ processes. If the Book is made available, FLEX Orders that satisfy the specification and minimum value size requirements described above are eligible to be entered in the Book, as well as the remaining balance of RFQ Orders and FLEX Quotes entered in response to an RFQ (both of which are treated the same as other FLEX Orders once entered in the Book).

The System will automatically execute incoming marketable FLEX Orders against FLEX Orders resting in the Book based on price-time priority,

provided that special procedures apply if a FLEX Appointed Market-Maker participation entitlement has been established for the option class and subject to the restriction discussed in the next paragraph. To the extent a FLEX Appointed Market-Maker(s) is entitled to a participation entitlement and is quoting at the best bid (offer), allocation among multiple bids (offers) at the same price shall be first to all FLEX Orders for the account of a public customer ranked ahead of the FLEX Appointed Market-Maker based on time priority, then the FLEX Appointed Market-Maker entitlement will be applied. Thereafter, all other FLEX Orders resting in the Book at the same price will trade based on time priority. To the extent there is any remaining balance of the incoming order, the balance will be entered in the Book or automatically cancelled, depending on any applicable Trade Conditions.³⁸

Under the proposed procedures for the FLEX Book, a Submitting Member may not execute as principal against a FLEX Order it represents as agent unless: (i) The agency FLEX Order is first subject to an RFQ, or (ii) the Submitting Member has been bidding or offering for at least the Crossing Exposure Period³⁹ prior to receiving an agency FLEX Order that is executable against such bid or offer. With respect to solicitation orders, a Submitting Member may not execute a solicited order against a FLEX Order it represents as agent unless the agency order is first subject to an RFQ.

All Book transactions must also be in compliance with Section 11(a)(1) and the rules promulgated thereunder. In this regard:

- *"G" Exemption:* The Exchange is proposing that a member may rely on the "G" exemption only if the member is "hitting" the Book with a proprietary order. To the extent the proprietary order is not executed in whole or in part as soon as it hits the Book, the order must be immediately cancelled by the member. Such a member would also have to satisfy the other requirements of the "G" exemption, including the gross-revenue-related requirements of paragraph (b) of the "G" exemption rule. However, a member may not rely on the "G" exemption to rest a proprietary order in the Book. This limitation is necessary in order to ensure that the member yields priority to any bid (offer)

at the same price for the account of a non-member.

- *"Effect versus Execute" Exemption:* The Exchange is proposing that a member that submits a proprietary order to rest or "hit" the Book from off the floor may rely on the Exchange's automated System to satisfy the requirement of the "effect versus execute" exemption that the member's proprietary order be executed by an exchange member that is not affiliated with the member initiating the proprietary order. Such a member would also have to satisfy the other requirements of the "effect versus execute" exemption (which are discussed in more detail below).

(c). Creation of Binding Contracts

Paragraph (c) of proposed Rule 24B.5 provides that acceptance of any bid or offer creates a binding contract under Rule 6.48. This provision is the same as in existing Rule 24A.5(d) and will apply for both RFQ and Book transactions.

(d). FLEX Priority Algorithms and Section 11(a)(1) Requirements

Paragraph (d) of proposed Rule 24B.5 describes the general priority principles applicable to the FLEX Hybrid System. Subparagraph (d)(1) includes a cross-reference to the priority algorithms applicable to electronic RFQs, open-outcry RFQs, and Book transactions, each of which is discussed above. Subparagraph (d)(2) describes the optional crossing and FLEX Appointed Market-Maker participation entitlements that may be overlaid on the general priority principles.⁴⁰ The framework for these participation entitlements is modeled after the existing FLEX rules. However, the Exchange is proposing some modifications from the existing structure, which are discussed further below.

With respect to the crossing participation entitlement, a Submitting Member that has matched or improved the BBO or BBO clearing price, as applicable, will have priority after yielding to certain trading interests to execute the contra-side of the trade to the extent of the applicable crossing participation entitlement.⁴¹ The crossing participation entitlement is intended to encourage members to bring FLEX Option orders to CBOE and to

³⁶ In this particular scenario, at the same price, priority is afforded first to any FLEX Appointed Market-Maker(s) with a participation entitlement, then to FLEX Quotes represented in the trading crowd that are not relying on the "G" exemption, then to FLEX Orders resting in the Book, then all other interest in the trading crowd relying on the "G" exemption. Among those latter interests, a Submitting Member seeking a crossing participation entitlement would then have priority to trade an amount that, when combined with allocated FLEX Appointed Market-Maker participation entitlement, does not exceed 40% of the original order size. See proposed Rule 24B.5(a)(2)(v)(B) and (d)(2)(ii).

³⁷ See proposed Rule 24B.5(a)(2)(v)(B).

³⁸ See note 9, *supra*.

³⁹ The length of this Crossing Exposure Period shall be determined by the appropriate Procedure Committee on a class-by-class basis and shall not be less than three seconds. See proposed Rule 24B.5(b)(3)(i).

⁴⁰ Additionally, Trade Conditions placed on a FLEX Order may prevent a match from occurring. See proposed Rules 24B.1(x) and 24B.5(d)(3).

⁴¹ As discussed above, the mechanics for receiving a crossing participation entitlement and the related priority requirements are described in proposed Rule 24B.5(a)(1)(iii)(D) with respect to electronic RFQs and in proposed Rule 24B.5(a)(2)(iii)(B) and (v) with respect to open-outcry RFQs.

commit their capital to the FLEX Options market on CBOE, and thereby contribute to the liquidity of that market, by guaranteeing them a minimum right of participation in the other side of any trade they bring to the market if they are prepared to match or improve the BBO.

For FLEX Equity Options, the appropriate Procedure Committee will determine on a class-by-class basis whether to establish a crossing participation entitlement for facilitations and/or solicitations for electronic RFQs and/or open-outcry RFQs and the applicable entitlement percentage, which shall not exceed 40% of the trade.⁴² For FLEX Index Options, the appropriate Procedure Committee will determine on a class-by-class basis whether to establish a crossing participation entitlement for facilitations and/or solicitations for electronic RFQs and/or open-outcry RFQs and the applicable entitlement, which shall be the greater of a crossing entitlement percentage (which shall not exceed 40%), a proportional share of the trade, \$1 million underlying equivalent value, or the remaining underlying equivalent value on a closing transaction valued at less than \$1 million.⁴³

The proposed crossing entitlement requirements also provide that a Submitting Member that is seeking a crossing participation entitlement in conjunction with an open-outcry RFQ may not cross an order that it is holding

with a solicited order from a FLEX Market-Maker that is then in the trading crowd, except in accordance with CBOE Rule 6.55, *Multiple Representation Prohibited*. As such, if a FLEX Market-Maker is solicited and agrees to participate on a cross, the FLEX Market-Maker would not be permitted to be present in the trading crowd when such order is represented and executed unless an exception under Rule 6.55 applies. Similarly, the Exchange is proposing that a Submitting Member that is seeking a crossing participation entitlement in conjunction with an electronic RFQ transaction may not cross an order with (i) A solicited order for the individual or joint account of a FLEX Market-Maker or (ii) a solicited order initiated by the FLEX Market-Maker for an account in which the FLEX Market-Maker has an interest, unless the FLEX Market-Maker refrains from participating on the same trade. In such instances, it would be the responsibility of the FLEX Market-Maker to ascertain whether solicited orders for the FLEX Market-Maker's joint account are being represented by the Submitting Member.

With respect to the FLEX Appointed Market-Maker participation entitlement, the existing FLEX rule provides that the appropriate Procedure Committee may establish a participation entitlement from time to time. In the past, the establishment of these entitlements and changes thereto have been the subject of separate rule filings.⁴⁴ In lieu of continuing the practice of submitting separate rule filings, the Exchange is proposing to include specific parameters within the rule text, similar to its rules respecting crossing participation entitlements (discussed above) and to its rules respecting market-maker participation entitlements for Non-FLEX Options.⁴⁵ These parameters will provide that the appropriate Procedure Committee may establish a participation entitlement formula for FLEX Appointed Market-Makers on a class-by-class basis with respect to open-outcry RFQs, electronic RFQs, and/or Book transactions. Any such FLEX Appointed Market-Maker participation entitlement shall: (i) Be divided equally by the number of FLEX Appointed Market-Makers quoting at the BBO or BBO clearing price, as

applicable; (ii) collectively, be no more than: 50% of the remaining order when there is one other FLEX Market-Maker also quoting at the same price, 40% when there are two other FLEX Market-Makers also quoting at the same price; and 30% when there are three or more FLEX Market-Makers also quoting at the same price; and (iii) when combined with any Submitting Member's crossing participation entitlement, shall not exceed 40% of the original order.⁴⁶ Capping the total FLEX Appointed Market-Maker participation entitlement when combined with the crossing participation entitlement at 40% is consistent with the existing FLEX rules.⁴⁷

The following is an example how the allocation will operate: Assume a FLEX Equity Option class has applied a 20% crossing participation entitlement and a 40% FLEX Appointed Market-Maker participation entitlement (when there are two other FLEX Market-Makers at the same price). At the end of an electronic RFQ, the interest representing the best offer of \$1.20 considering the responsive FLEX Quotes is composed of interest received in the following order: 75 contracts from FLEX Market-Maker A, 300 contracts from FLEX Appointed Market-Maker B, and 50 contracts from FLEX Market-Maker C. If the Submitting Member submits an order to buy 100 contracts at \$1.20 and intends to cross the order, the allocation among the contra-parties will be as follows: 20 contracts to the Submitting Member (20% of 100),⁴⁸ 20 contracts to FLEX Appointed Market-Maker B (greater of the participation entitlement of 20 contracts⁴⁹ or the price/time allocation of 5 contracts), and 60 contracts to FLEX Market-Maker A (based on time priority).

As with the existing FLEX rules, the proposed FLEX Hybrid Trading System rules also provide that all transactions must be in compliance with Section 11(a) of the Act⁵⁰ and the rules promulgated thereunder. Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange

⁴² The existing FLEX rules allow for a 25% crossing participation entitlement for FLEX Equity Options. This entitlement generally applies before any other trading interest represented at the execution price, which must be the better of the BBO or an improved price. See existing Rule 24A.5(e)(iii)(A). Providing for the flexibility to increase the entitlement percentage to 40% is similar to the percentage parameters that the Exchange may apply for crosses in Non-FLEX Options, which permit a crossing entitlement of up to 40% after all public customer orders in the limit order book are satisfied. See Rule 6.74(d). In addition, allowing for a 40% entitlement percentage is consistent with the American Stock Exchange's ("Amex") FLEX trading rules, which permit a FLEX Equity Option member firm guarantee of up to 40%. See Securities Exchange Act Release No. 54327 (August 16, 2006), 71 FR 49492 (August 23, 2006) (SR-Amex-2006-47).

⁴³ The existing FLEX rules have similar parameters for FLEX Index Options, except that the crossing entitlement percentage is set at 20%. See existing Rule 24A.5(e)(iii)(B). The proposed parameter allowing for up to 40% is similar to the parameter the Exchange applies for crosses in Non-FLEX Options. See CBOE Rule 6.74(d) and note 42, *supra*. The proposed rule also indicates that the proportional share, \$1 million underlying equivalent value, and remaining underlying equivalent value parameters will be made available only with respect to electronic RFQ transactions to the extent the Exchange determines to make this functionality available in the FLEX Hybrid Trading System. See proposed Rule 24B.5(d)(2)(i)(B).

⁴⁴ See existing Rule 24A.5(e)(iv) and Securities Exchange Act Release No. 45934 (May 15, 2002), 67 FR 36276 (May 23, 2002) (SR-CBOE-2002-09) (order approving a rule change relating to the allocation of orders for Appointed Market-Makers in FLEX Index Options).

⁴⁵ See, e.g., Rule 8.87, *Participation Entitlement of DPMs and e-DPMs*, which applies a DPM/e-DPM participation entitlement after all public customer orders in the limit order book are satisfied.

⁴⁶ See proposed Rule 24B.5(d)(2)(ii).

⁴⁷ See note 44, *supra*.

⁴⁸ In the event there were FLEX Orders resting in the Book at \$1.20 or FLEX Quotes for the account of public customers or non-member broker-dealers at \$1.20, such FLEX Orders and FLEX Quotes would have priority over the Submitting Member's participation entitlement. See proposed Rule 24B.5(a)(1)(iii)(D).

⁴⁹ The participation entitlement is the lesser of: (a) 40% of the remaining balance, which is 32 contracts (40% of 80) and (b) 40% of the original order minus the crossing entitlement, which is 20 contracts (40% of 100 minus 20).

⁵⁰ 15 U.S.C. 78k(a).

for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively referred to herein as “proprietary” orders) unless an exception applies. First enacted as part of the Securities Acts Amendments of 1975,⁵¹ Section 11(a) was intended by Congress to address trading advantages enjoyed by exchange members and conflicts of interest in money management.⁵² In particular, as noted by the Commission, Congress was concerned about members benefiting in their proprietary transactions from special trading advantages—such as the ability to “execute decisions faster than public investors.”⁵³

Where principal transactions contribute to the fairness and orderliness of exchange markets or do not reflect any time and place trading advantages, they are excepted from the prohibition. Among the transactions excepted under Section 11(a)(1) are those by a dealer acting in the capacity of a market maker,⁵⁴ bona fide arbitrage or hedge transactions,⁵⁵ and transactions made to offset errors.⁵⁶

Rule 11a2-2(T) under the Act, commonly referred to as the “effect versus execute” exemption rule, provides an exception in addition to those delineated in the statute.⁵⁷ Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with the rule’s conditions, a member (i) Must transmit the order from off the exchange floor;

(ii) must not participate in the execution of the transaction once it has been transmitted to the member performing the execution;⁵⁸ (iii) must not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction excepted as provided in the rule.

As described by the Commission, these four requirements—off-floor transmission, non-participation in order execution, execution through an unaffiliated member, and non-retention of compensation for discretionary accounts—were “designed to put members and non-members on the same footing, to the extent practicable, in light of the purposes of Section 11(a).”⁵⁹ If a transaction meets the requirements of the “effect versus execute” rule, it will be deemed to be “consistent with the purpose of Section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets.”⁶⁰

The Exchange believes that proprietary FLEX Orders originating from off the Exchange’s trading floor and entered into the FLEX Book (whether to rest or the “hit” the Book) would qualify for Rule 11a2-2(T). The electronic platform component of the Book would place all of these users—both members and non-members—on the “same footing,” as intended by Rule 11a2-2(T). Given the Book’s automated matching and execution services, no Exchange member would enjoy any special control over the time of execution or special order handling advantages for orders executed electronically via the Book, because such orders would be centrally processed for execution by computer, as compared to being handled by a member through bids and offers on the trading floor. Because the electronic trading platform components are designed to prevent any Exchange members from gaining any time and place advantages, the Exchange believes that the electronic trading platform component of the Book satisfies the four requirements of the “effect versus execute” rule as well as the general policy objectives of Section 11(a).

Rule 11a2-2(T) requires proprietary orders to be transmitted from off the exchange floor. In considering the

application of this requirement to a number of automated trading and electronic order-handling facilities operated by national securities exchanges, the Commission has deemed the off-floor requirement to be met if the order is transmitted from off the floor directly to the exchange floor by electronic means.⁶¹ Because the FLEX Hybrid Trading System permits remote entry of trading interests, the Exchange believes that members’ proprietary orders that are entered from off the Exchange’s trading floor and electronically received by the Book satisfy the off-floor transmission requirement for the purposes of the “effect versus execute” rule.

The “effect versus execute” rule further provides that the exchange member and its associated person may not participate in the execution of the transaction once the order has been transmitted. This requirement was included to prevent members with their own brokers on the exchange floor from using those persons to influence or guide their orders’ execution. This requirement does not preclude members from canceling or modifying orders, or from modifying the instructions for executing orders, after they have been transmitted to the floor. Such cancellations or modifications, however, also must be transmitted from off the exchange floor.⁶² The Exchange believes that a proprietary FLEX Order entered in the Book meets the non-participation requirement. Upon submission to the Book, such a proprietary order would enter the queue and be executed against other orders in the Book based on an established matching algorithm. The execution depends not on the Exchange member, but rather, upon what other orders are resident in the Book and where the order is ranked based on the price-time priority ranking algorithm and FLEX Appointed Market-Maker participation overlay. Therefore, at no time following submission of an order is an Exchange member able to acquire control or influence over the result or timing of orders generated. That is, unlike a floor broker who currently may

⁵¹ See Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

⁵² See Securities Reform Act of 1975, Report of the House Comm. on Interstate and Foreign Commerce, H.R. Rep. No. 94-123, 94th Cong., 1st Sess. (1975) (“House Report”); Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs, S. Rep. No. 94-75, 94th Cong., 1st Sess. (1975).

⁵³ See Securities Exchange Act Release Nos. 14563 (March 14, 1978), 43 FR 11542, 11543 (March 17, 1978); 14713 (April 27, 1978), 43 FR 18557, 18558 (May 1, 1978) (“1978 Release II”); 15533 (January 29, 1979), 44 FR 6084, 6092 (January 31, 1979) (“1979 Release”). Telephone conversation between Jennifer Lamie, Assistant General Counsel, CBOE, and Terri Evans, Special Counsel, Division, Commission, on August 22, 2007.

⁵⁴ See Section 11(a)(1)(A) of the Act, 15 U.S.C. 78k(a)(1)(A).

⁵⁵ See Section 11(a)(1)(D) of the Act, 15 U.S.C. 78k(a)(1)(D).

⁵⁶ See Section 11(a)(1)(F) of the Act, 15 U.S.C. 78k(a)(1)(F).

⁵⁷ 17 CFR 240.11a2-2(T). In addition to the application of Rule 11a2-2(T), members of the Exchange who are registered as market makers may also take advantage of the market-maker exemption from Section 11(a), at least for securities in which they make a market. See note 54, *supra*.

⁵⁸ The member may, however, participate in clearing and settling the transaction.

⁵⁹ See 1978 Release II, 43 FR at 18560.

⁶⁰ Rule 11a2-2(T)(e) under the Act, 17 CFR 240.11a2-2(T)(e).

⁶¹ Among the systems considered by the Commission are (1) the Philadelphia Stock Exchange’s VWAP Trading System; (2) the Pacific Exchange’s (“PCX”) Application of OptiMark; (3) Chicago Match; (4) the Amex’s Post Execution Reporting System and the Amex Switching System (see 1979 Release, 44 FR at n.25); (5) the Intermarket Trading System; (6) the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange; (7) the PCX’s Communications and Execution System (“COMEX”); and (8) the Phlx’s Automated Communications and Execution System (“PACE”) (see 1979 Release, 44 FR at nn. 19-35).

⁶² See Securities Exchange Act Release No. 14563 (March 14, 1978).

enjoy a trading advantage inherent to being present on an exchange floor for transactions being executed on that floor, no Exchange member would be permitted to take advantage of any non-member through use of the Book. As a result, the Exchange believes the non-participation requirement is met where these types of Exchange member orders are matched and executed automatically through the Book.

Although Rule 11a2-2(T) contemplates having an order executed by an exchange member who is unaffiliated with the member initiating the order, the Commission has recognized in the past that this requirement is not applicable where automated exchange facilities are used. For example, in considering the operation of COMEX and PACE, among other systems, the Commission noted that, while there is no independent executing exchange member, the execution of the order is automatic once it has been transmitted into the systems.⁶³ Because the design of these systems ensures that a member does not possess any special or unique trading advantages in handling its order after transmitting it to the exchange floor, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T).⁶⁴ The Exchange believes that this principle is directly applicable to the Book; the design of the Book ensures that an Exchange member does not have any special or unique trading advantages in handling its FLEX Orders after transmission. Accordingly, the Exchange believes that an Exchange member effecting a transaction by utilizing the System to enter a FLEX Order into the Book satisfies the requirement for execution through an unaffiliated member.

The exemption in Rule 11a2-2(T) states that, in the case of a transaction effected for any account for which the initiating member exercises investment discretion, in general, the member may not retain compensation for effecting the transaction. As a prerequisite to the use of the Book, if an Exchange member is to rely on Rule 11a2-2(T) for a managed account transaction, the Exchange member must comply with the limitations on compensation as set forth in paragraph (a)(2)(iv) of the "effect versus execute" rule.

The Exchange believes that these types of proprietary orders, when entered into the Book, satisfy the four requirements of the "effect versus execute" rule as well as the general

policy objectives of Section 11(a) of the Act. The proposed rule change is beneficial because it will facilitate transactions in securities and will remove impediments to and perfect the mechanism of a free and open market. The proposed rule change will place FLEX users, members, and non-members, on the "same footing," as intended by Rule 11a2-2(T). In light of the aforementioned, CBOE believes, under its proposal, no member that submits a FLEX Order will be able to engage in proprietary trading in a manner inconsistent with Section 11(a) of the Act.

Lastly, the Exchange notes that the text of proposed Rule 24B.5(b)(2) would provide that a proprietary order that is entered on behalf of a member relying on the "G" exemption⁶⁵ may not be submitted as a FLEX Order to rest in the Book. Instead, a priority order of a member relying on the "G" exemption may be executed only as a FLEX Order entered to "hit" the Book (or as part of an electronic or open-outcry RFQ).⁶⁶ To the extent the proprietary order is not executed in whole or in part as soon as it hits the Book, the order must be immediately cancelled by the member. A member relying on the "G" exemption would also have to satisfy the other requirements of that exemption.

The Exchange believes that members relying on the "G" exemption as an exemption to the Section 11(a)(1) requirements must comply with the requirements of that exemption before executing a proprietary order, including the requirement to yield priority to any bid or offer at the same price for the account of a person who is not, or is not associated with, a member (a "non-member"), irrespective of the size of any such bid or offer or the time when entered. Because the FLEX Hybrid Trading System will not always distinguish between member and non-member broker-dealer orders, the proposed restrictions of allowing the "G" exemption to be utilized only in open outcry on the physical floor of the Exchange (where the Member can manually yield priority), electronically as part of an electronic RFQ (where the System is programmed to yield to the Book and FLEX Quotes for the account of public customers and non-member broker-dealers), or electronically as a FLEX Ordered entered to "hit" the Book

provided the order is immediately cancelled to the extent it is not executed in whole or in part (where the Member would be the only contra-party on that side of the transaction) are intended to enforce the requirement that a member relying on the "G" exemption yield priority to non-members.

(e). FLEX Standard Minimum Increments

Subparagraph (e) of proposed Rule 24B.5 describes the proposed standard minimum increments applicable to FLEX bids and offers as follows.

- *FLEX Index Options:* The applicable increments for FLEX Index Options will be identical to the increments in the existing FLEX rules, which permit decimal bids and offers in the designated currency that meet or exceed certain minimum parameters.⁶⁷ For example, the minimum increment for U.S. dollars is \$0.01 (or such other minimum as the appropriate Procedure Committee may set from time to time to ensure fair and orderly markets). By comparison, the standard minimum increment applicable to Non-FLEX Index Options is generally \$0.10 for simple bids and offers in series quoted at or above \$3 a contract and \$0.05 for simple bids and offers in series quotes below \$3 a contract.⁶⁸

- *FLEX Equity Options:* The applicable increments for FLEX Equity Options will be determined by the appropriate Procedure Committee on a class-by-class basis, but may not be smaller than \$0.01. This represents a change from the existing FLEX rules, under which the trading increments applicable to FLEX Equity Options are the same as those that are applicable to Non-FLEX Equity Options (*i.e.*, \$0.10 for simple bids and offers in series quoted at or above \$3 a contract, \$0.05 for simple bids and offers in series quoted below \$3 a contract, and \$0.01 for series quoted in the penny pilot program).⁶⁹ Thus, similar to the existing practice for FLEX Index Options, FLEX Equity Options bids and offers would now be permitted in \$0.01 increments for simple bids and offers.

⁶⁷ See existing Rule 24A.5(g), which is proposed to be renumbered to Rule 24A.5(f), and proposed Rule 24B.5(e).

⁶⁸ See Rule 6.42, *Minimum Increments for Bids and Offers*. The \$0.10 and \$0.05 increments are applicable to simple orders. Under Rule 6.42(4), a smaller increment applies with respect to multi-part complex orders. In addition, under other CBOE rules, a smaller increment may be applicable to simple orders. See, e.g., Rule 6.74A, *Automated Improvement Mechanism ("AIM")*, which is an automated auction process that permits price improvement in increments as small as \$0.01.

⁶⁹ See CBOE Rule 6.42(3).

⁶³ See 1979 Release.

⁶⁴ See *id.*

⁶⁵ 17 CFR 240.11a1-1(T).

⁶⁶ Any member relying on the "G" exemption as part of the open-outcry RFQ mechanics must yield priority to any bid (offer) at the same price that is represented in the Book and all FLEX Quotes that have priority over the Book. See note 36, *supra* and related discussion.

The Exchange believes this change in the standard minimum increment applicable to FLEX Equity Options is consistent with the existing policy and procedure for FLEX Index Options. The Exchange notes that, given the unique nature of FLEX trading occurring primarily through the RFQ auction process and limited amount of secondary trading that occurs and is anticipated to occur in FLEX Options,⁷⁰ it is not expected that this change in increment will have any detrimental impact on system capacity or on trading in Non-FLEX Equity Options overlying the same classes. The Exchange also believes that utilizing a \$0.01 increment is reasonable and appropriate and will better accommodate trading in FLEX Equity Options which are subject to certain minimum value size requirements and which, if otherwise traded over-the-counter, would not be subject to such restrictions on trading increment and size. CBOE believes market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of FLEX Options.

(D). FLEX Market-Maker Appointments & Obligations (Proposed Rule 24B.9)

Proposed Rules 24B.9, *FLEX Market-Maker Appointments and Obligations*, prescribes the types of FLEX Market-Makers that may be appointed and applicable quoting obligations with respect to the FLEX Hybrid Trading System platform. This proposed rule differs from Rule 24A.9, which pertains to appointments and quoting obligations with respect to the FLEX RFQ System platform, in various respects including that the applicable Market-Maker categories and the number appointed within each class are being revised.

As with the existing FLEX rules, the Exchange is proposing to limit FLEX Market-Maker appointments to CBOE members that are registered with the Exchange as Market-Makers. Under the proposed appointment provisions, FLEX Qualified Market-Makers would also be required to maintain an appointment in at least one Non-FLEX option class listed on the Exchange. FLEX Market-Makers are currently, and under the

proposed new Rules would continue to be, designated as specialists on the CBOE for all purposes under the Act. In addition, with respect to the categories of FLEX Market-Makers, there will continue to be two categories: FLEX Appointed Market-Makers and FLEX Qualified Market-Makers.

Under the existing FLEX Rules, the categories and number of FLEX Market-Makers appointed to a given class depends on whether it is for a FLEX Equity Option class or FLEX Index Option class:

- For FLEX Equity Options, the existing rules generally call for five or more FLEX Qualified Market-Makers to be appointed to each class; provided, however, that the appropriate Exchange Market Performance Committee can determine to appoint two or more FLEX Appointed Market-Makers to such classes in lieu of appointing FLEX Qualified Market-Makers.

- For FLEX Index Options, the existing rules call for two or more FLEX Appointed Market-Makers to be appointed to each class and for settlement in one or more currencies.

The proposed rule for the FLEX Hybrid Trading System platform, as well as corresponding changes to the existing rule for the FLEX RFQ System platform, would eliminate these distinctions between equity and index products, and will instead provide that the Exchange will appoint two or more FLEX Qualified Market-Makers to each FLEX Index Option of a given class and currency and to each FLEX Equity Option class.⁷¹

Under the proposed appointment procedures, a registered Market-Maker may apply on a form prescribed by the Exchange to be a "FLEX Qualified Market-Maker" in one or more classes of FLEX Options. From among the applicants, the Exchange would appoint two or more FLEX Qualified Market-Makers to each FLEX Index Option of a given class and settlement currency, and two or more FLEX Qualified Market-Makers to each FLEX Equity Option of a given class. In making such appointments and in taking other action with respect to FLEX Qualified Market-Makers, the Exchange shall take into account the factors enumerated in, and shall refer to the requirements of, Rule 8.3, *Appointment of Market-Makers*. In addition, as discussed above, a

proposed new requirement would be that, as a condition to receiving and maintaining a FLEX Qualified Market-Maker appointment in a FLEX Index Option class (or a FLEX Equity Option class, as applicable,) the FLEX Qualified Market-Maker must maintain an appointment in one or more Non-FLEX Index Option classes (or one or more Non-FLEX Equity Option classes, as applicable).⁷² Such Non-FLEX Option class appointment(s) need not be in a class(es) that has the same underlying index (or security) as the appointed FLEX Option class.

Notwithstanding the above, under the proposed appointment procedures, the appropriate Market Performance Committee may determine to solicit applications and appoint (i) One or more FLEX Appointed Market-Makers in addition to appointing FLEX Qualified Market-Makers to such classes or (ii) two or more FLEX Appointed Market-Makers in lieu of appointed FLEX Qualified Market-Makers. Thus, under this revised structure that will be applicable to both trading platforms, a FLEX Option class could be structured as a FLEX Qualified Market-Maker-only crowd with at least two participants, a mixed FLEX Qualified/Appointed Market-Maker crowd with at least three participants, or a FLEX Appointed Market-Maker-only crowd with at least two participants. Providing for the flexibility to determine the eligible categories of market-maker participants is similar to the existing rules regarding FLEX Equity Option appointments and other Exchange Rule regarding the appointment of market-makers in Non-FLEX Options.⁷³

The applicable market-making restrictions and obligations of FLEX Market-Makers will continue to be applied in a similar manner, except that new obligations respecting electronic RFQs and the Book will be specified. Specifically: (i) A FLEX Appointed Market-Maker will have an obligation to respond to any open-outcry RFQ and to a percentage of electronic RFQs⁷⁴ in the Appointed Market-Maker's appointed classes in the prescribed minimum

⁷² Market-Makers that are registered and appointed to trade Non-FLEX Options are subject to certain market-making obligations, including obligations respecting quote widths, continuous electronic quoting obligations, and continuous open-outcry quoting obligations. See CBOE Rule 8.7, *Obligations of Market-Makers*.

⁷³ See, e.g., CBOE Rules 8.14, *Index Hybrid Trading System Classes: Market-Maker Participants*, and 8.95, *Allocation of Securities and Location of Trading Crowds and DPMs*.

⁷⁴ The applicable electronic RFQ response percentage will be determined by the appropriate Procedure Committee and will not be less than 80%. See proposed Rules 24B.4(a)(5)(iv) and 24B.9(c).

⁷⁰ The Exchange also notes that, in Non-FLEX Equity Option class, certain bids and offers are already permitted in \$0.01 increments. See notes 68 and 69, *supra*.

⁷¹ As compared to the existing FLEX rules, the proposal would replace various references to "appropriate Market Performance Committee" with the "Exchange." Certain of these changes make the rule consistent with current practice and procedures. Additionally, CBOE can continue to delegate to the appropriate Market Performance Committee various duties and responsibilities.

response size; and (ii) a FLEX Qualified Market-Maker will be permitted, but not obligated, to respond to RFQs but, when responding, must respond in the prescribed minimum response size. In addition, similar to the existing FLEX rules, under the FLEX Hybrid Trading System rules a FLEX Official may call upon FLEX Market-Makers appointed in a class of FLEX Options to submit FLEX Quotes in response to a specific Request for Quotes in that class of FLEX Options whenever in the opinion of the FLEX Official the interests of a fair, orderly, and competitive market are best served by such action. Similar to the existing FLEX rules, the FLEX Official shall also make such a call upon FLEX Market-Makers whenever no FLEX Quotes are made in response to a specific Request for Quotes. The ability of a FLEX Official to call on FLEX Market-Makers applies to both electronic and open-outcry RFQs. Also, as with the existing FLEX rules, under the FLEX Hybrid Trading System rules FLEX Appointed Market-Makers and FLEX Qualified Market-Makers need not provide continuous FLEX Quotes or quote a minimum bid-offer spread in FLEX Options, except that certain maximum bid-offer spread requirements do apply for FLEX Market-Makers quoting in FLEX Options with a European-style exercise, an underlying of the S&P 100 Index or the S&P 500 Index, and two weeks or more to expiration.⁷⁵ FLEX Market-Makers also need not enter FLEX Orders into the electronic book, but to the extent they do so, such orders must satisfy the applicable minimum size requirements.

These market-making restrictions and obligations are tailored to reflect the particular nature of FLEX Options, which are customized to fit particular investor needs, and the particular nature of FLEX trading, which is anticipated to continue to have limited secondary trading in any series due to the diversity inherent in FLEX Options. The restrictions and obligations are designed to assure that each FLEX Market-Maker's course of dealings as a FLEX Market-Maker will contribute significantly and positively toward the maintenance of fair and orderly markets in FLEX Options on the Exchange and will, therefore, be consistent with the protection of investors and the purposes of the Act and Section 11(a) thereof. As proposed, FLEX Market-Makers will be required to engage generally in a course of dealings which will enhance the Exchange market and positively

contribute to depth and liquidity. These objectives are basic to the major purposes of the Act and, thus, are consistent with the purposes of Section 11(a) and the protection of investors. Therefore, the Exchange believes that a FLEX Market-Maker who initiates the purchase or sale of securities as provided in the proposed Rules will be "acting in the capacity of market maker" within the meaning of Section 11(a)(1)(A) of the Act.⁷⁶

(E). FLEX Officials (Proposed Rule 24B.14)

Existing FLEX Rule 24A.12 currently provides that a FLEX Post Official is responsible for (i) Reviewing the conformity of FLEX Requests for Quotes and FLEX Quotes to the terms and specifications contained in Rule 24A.4, (ii) posting FLEX Requests for Quotes for dissemination, (iii) determining the BBO, (iv) ensuring that FLEX contracts are executed in conformance with the priority principles set forth in Rule 24A.5(e), (v) calling for Indicative FLEX Quotes in accordance with the requirements of Rule 24A.12(c), and (vi) calling upon FLEX Qualified Market-Makers to make FLEX Quotes in specific classes of FLEX Equity Options as provided in Rule 24A.9(c).

Proposed Rule 24B.14, *FLEX Official*, corresponds with existing Rule 24A.12 and describes the functions of an Exchange FLEX Post Official (referred to in the proposed new rules as simply a "FLEX Official") for the new FLEX Hybrid Trading System. Under proposed Rule 24B.14, a FLEX Official will continue to be responsible for reviewing the conformity of *open-outcry* FLEX Requests for Quotes to the applicable terms and specifications in proposed Rule 24B.4. However, because open-outcry FLEX Quotes will now be provided to the Submitting Member, the FLEX Official will no longer be responsible for reviewing such FLEX Quotes for conformity to the applicable terms and specifications or determining the BBO.⁷⁷ In addition, the proposed

rule provides that a FLEX Official may nullify a FLEX transaction, whether executed in open outcry or electronically, if the transaction is determined by the FLEX Official to not conform to the terms and specifications contained in Rule 24B.4 or to the priority principles set forth in Rule 24B.5. However, a trade subject to adjustment or nullification pursuant to Rule 6.25, *Nullification and Adjustment of Equity Options Transactions*, or Rule 24.16, *Nullification and Adjustment of Transactions in Index Options, Options on ETFs and Options on HOLDRS*, shall be subject to the procedures set forth in Rule 6.25 or 24.16.

Similar to the existing FLEX rules, a FLEX Official will also be responsible for calling upon FLEX Market-Makers, whether Qualified or Appointed to a given class, to make FLEX Quotes in specific classes, as provided in proposed Rule 24B.9.⁷⁸

(F). Other FLEX Hybrid Trading System Rules

The remaining rules that are proposed to be included in Chapter XXIVB are the same as, or closely modeled after, the existing FLEX rules. For example, proposed Rules 24B.2, *Hours of Trading*; 24B.3, *Trading Rotations*; 24B.10, *Related Securities*; 24B.15, *Nonavailability of RAES*; and 24B.16, *Inapplicability of Split Price and Accommodation Liquidation Rules*, are identical to Rules 24A.2, 24A.3, 24A.11, 24A.16, and 24A.17, respectively. Proposed Rules 24B.6, *Discretionary Transactions*, and 24B.13, *Letter of Guarantee or Authorization* are virtually identical to Rules 24A.6 and 24A.15, respectively, except for non-substantive grammatical changes.

Proposed Rules 24B.11, *FLEX Index Appointed Market-Maker Account Equity*, and 24B.12, *FLEX Index Appointed Market-Maker Financial Requirements*, are virtually identical to Rules 24A.13 and 24A.14, respectively, except that revisions are being made to clarify that these rules apply only to

⁷⁶ The term "market maker" is defined in Section 3(a)(38) of the Act, 15 U.S.C. 78c(a)(38), to include "any dealer who, with respect to a security, holds himself out (by entering quotations in an interdealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."

⁷⁷ See existing Rule 24A.12(b)(i)—(iv) (providing that a FLEX Post Official is responsible for reviewing the conformity of FLEX RFQs and FLEX Quotes to the terms and specifications contained in existing Rule 24A.4, posting FLEX RFQs for dissemination, determining the BBO, and ensuring that FLEX contracts are executed in conformance with the priority principles set forth in Rule 24A.5(e)). By comparison, to initiate the open-outcry RFQ process under the proposed FLEX Hybrid System, a Submitting Member must submit

a Request for Quotes to the FLEX Official. After providing a Request for Quotes in proper form to the FLEX Official, the Submitting Member must immediately announce the terms and specifications of the Request for Quotes to the trading crowd for the FLEX Option by public outcry. See proposed Rule 24B.5(a)(2)(i). To initiate a FLEX transaction using the electronic RFQ process, a Submitting Member submits a Request for Quotes to the System, not the FLEX Official. On receipt of a Request for Quotes in the proper form, the System causes the terms and specifications to be communicated to FLEX Traders. See proposed Rule 24B.5(a)(1)(i).

⁷⁸ By comparison, the existing FLEX Rule 24A.12 provides for only the FLEX Official to call upon FLEX Qualified Market-Makers. See existing Rule 24A.12(b)(vi).

⁷⁵ See existing Rule 24A.9(e) and proposed Rule 24B.9(e).

FLEX Index Appointed Market-Makers.⁷⁹

Proposed Rules 24B.7, *Position Limits and Reporting Requirements*, and 24B.8, *Exercise Limits*, are modeled after existing Rules 24A.7 and 24A.8. However, the Exchange is proposing to make certain revisions to existing Rules 24A.7 and 24A.8, and to include the same language in proposed Rules 24B.7 and 24B.8, relating to the applicable position and exercise limits for FLEX Index Options and the aggregation of certain FLEX and non-FLEX positions.

Specifically, the current text indicates that there are no position limits for any broad-based FLEX Index Options. The proposed text provides that, while there are no position limits for FLEX DJX, NDX, OEX, or SPX options contracts,⁸⁰ all other FLEX Index Options (whether broad-based or not) will be subject to position limits fixed by the Exchange within prescribed parameters set forth in existing Rule 24A.7 and proposed Rule 24B.7. Specifically, the rules would provide that:

- *Other Broad-Based FLEX Index Option Classes:* The Exchange-established position limits with respect to a broad-based FLEX Index Option class (other than the four identified above) shall not exceed 200,000 contracts on the same side of the market.
- *Industry-Based FLEX Index Option Classes:* The Exchange-established position limits for an industry-based FLEX Index Option class shall not exceed one times the applicable number of Non-FLEX Index Option Contracts

⁷⁹ The special account equity and financial requirements under existing Rules 24A.13 and 24A.14 only apply to "FLEX Appointed Market-Makers," who currently are appointed only to FLEX Index Option classes and currently are subject to certain heightened FLEX Quote minimum value size requirements under Rule 24A.4(a)(4)(iv). Given the proposed changes to the FLEX Market-Maker appointments discussed above, which would allow for the appointment of a FLEX Equity Appointed Market-Maker, proposed Rules 24B.11 and 24B.12 make clear that these special account equity and financial requirements would apply only to FLEX Index Appointed Market-Makers (who would continue to be subject to the heightened FLEX Quote, as well as FLEX Order, minimum value size requirements under proposed Rule 24B.4(a)(5)(iv)) and not FLEX Equity Appointed Market-Makers (who would not be subject to heightened minimum value size requirements). Corresponding changes are also being proposed to existing Rules 24A.13 and 24A.14.

⁸⁰ The Exchange notes that these four broad-based FLEX Index Options classes correspond with the Non-FLEX DJX, NDX, OEX, and SPX options classes, which currently have no position limits under Rule 24.4, *Position Limits for Broad-Based Index Options*. The Exchange also notes that FLEX DJX, NDX, OEX, and SPX options contracts are, however, subject to special reporting requirements in accordance with existing Rule 24A.7(b). This same reporting requirements are included in proposed Rule 24B.7(b).

(whether long or short) of the put class and the call class on the same side of the market, as determined on the basis of the position limits established pursuant to Rule 24.4A, *Position Limits for Industry Index Options*; provided, however, the position limits for an industry-based FLEX Index Option class shall not exceed four times the applicable position limits established pursuant to Rule 24.4A, instead of one times as provided above, for: (i) The Dow Jones Transportation Average or the Dow Jones Utility Average; or (ii) an underlying industry-based index that is not a "narrow-based security index," as defined under Section 3(a)(55)(B) of the Act.⁸¹

- *Micro Narrow-Based FLEX Index Option Classes:* The Exchange-established position limits for a micro narrow-based FLEX Index Option class shall not exceed one times the applicable number of Non-FLEX Index Option Contracts (whether long or short) of the put class and the call class on the same side of the market, as determined on the basis of the position limits established pursuant to Rule 24.4B, *Position Limits for Options on Micro Narrow-Based Indexes As Defined Under Rule 24.2(d)*.

The rules would also provide that FLEX Option positions shall not be aggregated with positions in Non-FLEX Options other than as described below, and positions in FLEX Index Options on a given index shall not be aggregated with options on any stocks included in the index or with FLEX Index Option positions on another index.

- *Comparable QIX Options:* Commencing at the close of trading two business days prior to the last trading day of the calendar, positions in P.M. Settled FLEX Index Options (*i.e.*, FLEX Index Options having an exercise settlement value determined by the level of the index at the close of trading on the last trading day before expiration) shall be aggregated with positions in Quarterly Index Options on the same index with the same expiration ("comparable QIX options") and shall be subject to the position limits set forth in Rule 24.4, 24.4A, or 24.4B, as applicable.

- *Comparable Weekly Options:* Commencing at the close of trading two business days prior to the last trading day of the week, positions in FLEX Options that are cash-settled⁸² shall be aggregated with positions in Short Term

⁸¹ 15 U.S.C. 78c(a)(55)(B).

⁸² FLEX Index Options and FLEX Credit Default Options are cash-settled. FLEX Equity Options are settled by physical delivery. See existing Rules 24A.4(b)(4) and (c)(3) and 29.19; see also proposed Rules 24B.4(b)(4) and (c)(3).

Option Series on the same underlying (*e.g.* same underlying index) with the same means for determining exercise settlement value (*e.g.*, opening or closing prices of the underlying index) and same expiration ("comparable Weekly options") and shall be subject to the position limits set forth in Rule 24.4, 24.4A, 24.4B, or 29.5, as applicable.

With respect to exercise limits, the proposed rule text clarifies that the exercise limits for FLEX Index Options shall be equivalent to the FLEX position limits and that FLEX DJX, NDX, OEX, and SPX options shall not be subject to exercise limits.

Because the maximum FLEX Index Option position and exercise limits will now be specifically set out in Rules 24A.7, 24A.8, 24B.7, and 24B.8 (before the rules simply provided that the limits would be "fixed by the Exchange"), the Exchange is also proposing to eliminate the requirement that, when CBOE files to trade a new Non-FLEX Index Option, it also propose the position and exercise limits that will apply for the related FLEX Index Option.⁸³

* * * * *

The Exchange believes that, while retaining the existing advantages of exchange-traded FLEX Options, the FLEX Hybrid Trading System will streamline and automate the FLEX trading process and establish increased price transparency. The Exchange believes that the FLEX Hybrid Trading System will offer a legitimate alternative for institutional sell-side firms and potentially buy-side customers to taking their order flow to the OTC market. Additionally, the FLEX Hybrid Trading System will offer the CBOE market-making community a channel to the FLEX Options market.

(2). Proposed Changes to Existing FLEX Rules (Chapter XXIVA) & Related Cross-References

The Exchange is also proposing certain changes to the existing FLEX rules that correspond to the proposed rules discussed above in order that there be consistency between the two sets of rules. These changes include revising provisions pertaining to the various categories of FLEX Market-Makers and related obligations in Rules 24A.4,

⁸³ See Securities Exchange Act Release No. 43108 (August 2, 2000), 65 FR 48770 (August 9, 2000) (SR-CBOE-00-26) (immediately effective proposal providing for the listing and trading of FLEX Options on all of the indices on which the Exchange lists and trades Non-FLEX Options). As part of that rule change, CBOE represented that, when it files a proposed rule change to list and trade a new Non-FLEX Index Option, it will also propose to list and trade the FLEX Index Options in the same file and include proposed position and exercise limits.

24A.5, 24A.9, 24A.13, 24A.14, and 24A.15; the applicable crossing and Appointed Market-Maker participation entitlements and crossing procedures in Rule 24A.5;⁸⁴ the increments applicable to FLEX Equity Options in Rule 24A.5;⁸⁵ the position limits applicable to FLEX Index Options in Rule 24A.7; and the FLEX Post Official description and responsibilities in Rules 24A.1(g) and 24A.12. The term "FLEX Post Official," as described in Rules 24A.1(g) and 24A.12 is being revised to reflect that, in addition to Exchange employees, such individuals can include independent contractors designated by the Exchange to perform the FLEX post functions set out in the rules.⁸⁶ In addition, the term "Indicative

⁸⁴ In addition, at the end of existing Rule 24A.5, the cross-references to other Exchange rules are proposed to be updated to clarify that paragraph (d) of CBOE Rule 6.9, *Solicited Transactions*, is superceded in those situations where a Submitting Member representing an eligible order and a contra-side order determines to take advantage of the crossing participation entitlement provisions of Rule 24A.5. The addition of this cross-reference is simply a clarification of the current application of Rule 24A.5(e)(iii). Specifically, while Rule 6.9(d) provides that non-solicited Market-Makers and Floor Brokers holding non-solicited discretionary orders in the trading crowd will have priority over the solicited person or the solicited order to trade with an original order at the best bid or offered price, Rule 24A.5(e)(iii) provides the solicited person or order with priority over all other parties for an applicable crossing participation entitlement, which is proposed to be determined by the appropriate Exchange Procedure Committee on a class-by-class basis. The cross-references to other Exchange rules at the end of proposed Rule 24B.5 will have a similar reference to paragraph (d) of Rule 6.9. See also note 22, *supra*.

⁸⁵ In addition, at the end of existing Rule 24A.5, the cross-references to other Exchange rules are proposed to be updated to reflect that the provisions of paragraphs (1)–(3) of CBOE Rule 6.42, as well as those in paragraph (4) of Rule 6.42 pertaining to SPX and OEX complex orders that are not box/spread rolls, are superceded by Rule 24A.5(g). Rule 24A.5(g), which is proposed to be renumbered to Rule 24A.5(f), sets out the minimum incremental changes for FLEX Index Options and proposed minimum incremental changes for FLEX Equity Options. The addition of the cross-reference to the various provisions of Rule 6.42 is intended to clarify that the minimum increment for a simple order in a FLEX Index or Equity Option class is as specified in Rule 24A.5, but the minimum increment for a multi-part, complex order in a FLEX Index or Equity Option class may be expressed in any increment, as provided in Rule 6.42(4). The cross-references to other Exchange rules at the end of proposed Rule 24B.5 will have a similar reference to Rule 6.42.

⁸⁶ Inclusion of independent contractors within the category of persons eligible to be appointed to perform the function of FLEX Post Officials is consistent with CBOE rules pertaining to the appointment of Exchange PAR Officials. See CBOE Rule 7.12, *PAR Official*. In addition, as with the existing PAR Official requirements, the proposed requirements for FLEX Post Officials provide that the FLEX Post Official and any designated assistants may not be affiliated with any member that is approved to act as a Market-Maker, including a FLEX Market-Maker. The proposed requirements also provide that the FLEX Post Official and any

FLEX Quote" in Rule 24A.1 and a related reference in Rule 24A.12 are being removed. Indicative FLEX Quotes were non-binding indications of the market for particular series of FLEX Options that were periodically supplied by Market-Makers and displayed on the FLEX communication network. This functionality is no longer utilized, so the obsolete references in Rules 24A.1 and 24A.12 are being deleted.

Finally, cross-references in the Exchange rules are being updated to include a corresponding reference to the proposed FLEX Hybrid Trading System rules, and various non-substantive grammatical and formatting changes are being made throughout.

(3). Sponsored Users (Proposed Rule 6.20A)

In conjunction with the introduction of the new FLEX Hybrid Trading System, CBOE is proposing to add the concepts of Sponsored Users and Sponsoring Members to its rules. Sponsored Users would be provided electronic access to directly enter and execute orders through a Sponsoring Member onto the Exchange's FLEX Hybrid Trading System.

CBOE is proposing to adopt Rule 6.20A, which will govern electronic access for the entry and execution of orders by Sponsored Users with authorized access to the System and outline the requirements that Sponsored Users and Sponsoring Members would be required to meet prior to engaging in a Sponsoring Member/Sponsored User relationship. A "Sponsored User" would be a person, such as an institutional investor, who has entered into a sponsorship arrangement with a Sponsoring Member for purposes of entering orders on the System. This would include entering and responding to electronic RFQs and entering FLEX Orders into the Book. A Sponsored User may obtain and maintain authorized access to the System only if such access is authorized in advance by one or more Sponsoring Members in accordance with the provisions of proposed Rule 6.20A, which are substantially similar to NYSE Arca Inc. ("NYSEArca") Rules 7.29 and 7.30.⁸⁷

designated assistants shall be compensated exclusively by the Exchange, which shall determine the amount and form of compensation, and that no Market-Maker, including a FLEX Market-Maker, shall directly or indirectly compensate or provide any other form of consideration to a FLEX Post Official or any designated assistants.

⁸⁷ In comparison to the NYSEArca rules, proposed Rule 6.20A differs in that it will be limited to only the FLEX Hybrid Trading System and will also provide that, to the extent the Sponsoring Member is not a clearing firm, the Sponsoring Member's clearing firm, who must be a

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act⁸⁸ and the rules and regulations thereunder, in general, and Section 6(b)(5)⁸⁹ in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

CBOE member organization, would have to provide CBOE with a Letter of Authorization, accepting responsibility for the clearance of the Sponsored User's transactions.

⁸⁸ 15 U.S.C. 78f(b).

⁸⁹ 15 U.S.C. 78f(b)(5).

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2006-99 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2006-99. 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 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-CBOE-2006-99 and should be submitted on or before September 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹⁰

Nancy M. Morris,
Secretary.

[FR Doc. E7-17165 Filed 8-29-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56315; File No. SR-ISE-2007-58]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change Relating to ISEE Select Market Data Fees

August 24, 2007.

On July 6, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its Schedule of Fees to adopt a

subscription fee for an enhanced sentiment market data offering. The proposed rule change was published for comment in the **Federal Register** on July 25, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

I. Description of the Proposal

The Exchange proposes to offer, to both member and non-member subscribers, a data feed that will provide a bulk delivery of ISEE Select™ ("ISEE Select") values.⁴ The existing ISEE Select browser application allows a subscriber to access ISEE Select values for up to five securities simultaneously; this proposal will allow subscribers to access numerous ISEE Select values simultaneously. The actual potential number of ISEE Select values accessible by this proposed data feed offering can range from one to more than 1,700.

The ISEE Select data feed will have a flat rate subscription fee based on a fixed number of end users that each subscriber allows to view the data, as follows: \$0.10 Per end user, per month, for a minimum of 10,000 end users; \$0.10 for each additional end user, per month, up to 74,999 end users, in increments of 5,000 end users; \$0.084 per end user, per month, for redistribution from 75,000 to 199,999 end users, in increments of 5,000 end users; and \$0.0825 per end user, per month, for redistribution to 200,000 or more end users, in minimum increments of 5,000 end users. An example of the monthly subscription fee for a subscriber with 100,000 end users is as follows:

Number of users per increment	Monthly fee per user	Monthly sub-total
10,000	\$.10	\$1,000
10,001-74,999	.10	6,500
75,000-100,000	.084	2,100
Monthly Total		9,600
Average Fee per User		.096

II. Discussion

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.⁵ Specifically, the Commission finds that the proposal is

consistent with Section 6(b)(4) of the Act, which requires that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. This proposed rule change will diversify ISEE Select offerings by allowing members and non-

members to subscribe to a data feed of ISEE Select values at a flat rate subscription fee for redistribution to their customers. Further, we note that the fees are identical for members and non-members. As with other ISEE Select

⁹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56093 (July 18, 2007), 72 FR 40912.

⁴ ISEE Select allows subscribers to identify bullish and bearish investor sentiment for nearly any issue traded on the Exchange by providing sentiment values for particular indices, industry sectors or individual stocks. These values are calculated three times per hour.

⁵ 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).

products,⁶ this offering is purely optional; it is not necessary to subscribe to this service to trade options on the ISE.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-ISE-2007-58) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Nancy M. Morris,
Secretary.

[FR Doc. E7-17162 Filed 8-29-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56319; File No. SR-NASDAQ-2006-045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2, To Allow the Use of a Company's Web Site To Distribute an Annual Report and Meet Other Nasdaq Listing Requirements

August 24, 2007

I. Introduction

On October 31, 2006, the Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to allow the use of a Nasdaq-listed company's Web site to distribute its annual report and meet other Nasdaq listing requirements. On April 25, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change.³ The proposed rule change was published for comment in the **Federal Register** on June 12, 2007.⁴ The Commission did not receive any comment letters on the proposal. On August 24, 2007, the Exchange filed Amendment No. 2 to the proposed rule

change.⁵ This order approves the proposed rule change, as amended by Amendment Nos. 1 and 2, provides notice of Amendment No. 2, and solicits comments from interested persons on Amendment No. 2.

II. Description of the Proposal

Nasdaq proposes to make changes to its rules to facilitate the use of technology to satisfy Nasdaq listing requirements and to make certain clarifying and technical corrections.

Annual Reports

Pursuant to Nasdaq Rule 4350(b)(1)(A), each Nasdaq issuer is currently required to distribute to shareholders a copy of an annual report containing audited financial statements.⁶ Nasdaq proposes to modify its rules to permit a company to distribute its annual report by posting it on a Web site and issuing a press release stating that the annual report has been filed with the Commission (or other appropriate regulatory authority), that such annual report is available on the company's publicly available Web site, and that shareholders can receive a hard copy free of charge upon request.⁷ The proposal requires that the hard copy be provided within a reasonable time period following the request. Nasdaq notes that this proposal is most meaningful to foreign private issuers because they are exempt from the Commission's proxy solicitation rules under Rule 3a12-3(b) of the Act.⁸

In the initial version of the rule change, Nasdaq proposed that the annual report requirement is applicable only to issuers of common stock and voting preferred stock (and their equivalents).⁹ In Amendment No. 2, Nasdaq decided to retain the current formulation of Rule 4350(b)(1)(A), so it will apply to all Nasdaq issuers and not just issuers of common stock and voting preferred stock (and their equivalents).¹⁰ The proposed rule change also provides that the annual

report requirement can be satisfied by making available to shareholders the company's annual filing with the Commission, including but not limited to Forms 10-K, 20-F, 40-F, or N-CSR.¹¹ Further, Nasdaq proposes to remove a provision related to the timing for delivery of the annual report, because the Exchange notes that the Commission's proxy rules already require that such information be provided before the annual meeting.¹² Nasdaq is also removing the rule provision that the annual report be filed with Nasdaq at the same time that it is made available to shareholders. According to the Exchange, it does not require a copy of the company's annual report with audited financial statements to be filed with it because it has access to company filings through the Commission's EDGAR database. Nasdaq obtains access to these filings through an online vendor subscription service. The vendor receives all electronically-filed documents within seconds of their submission to the EDGAR system and provides Nasdaq staff immediate access to these filings through the Internet.¹³

In addition, Nasdaq proposes to make a technical correction to Rule 4350(b)(1)(B), relating to the disclosure required when the audit opinion of a company's annual financial statements contains a "going concern qualification." The proposed change removes the term "going concern qualification," which is undefined in the accounting literature, and replaces it with language from Statement on Auditing Standard Number 59, which relates to the auditor's consideration of an entity's ability to continue as a going concern.

Disclosure of Non-Conforming Governance Practices

Nasdaq requires that foreign private issuers disclose all non-conforming governance practices in their Form F-1,

¹¹ In Amendment No. 2, Nasdaq modified the proposed rule language to make it clear that the aforementioned forms are not an exhaustive list. For example, the rule can be satisfied by making available other forms, such as the 10-KSB. See Amendment No. 2, *supra* note 5.

¹² Pursuant to Rule 14a-3(b), 17 CFR 240.14a-3(b), the proxy statement for a company's annual meeting at which directors are to be elected must be accompanied or preceded by an annual report. State law requirements also govern the amount of notice that must be provided for a meeting. See, e.g., Section 222(b) of the Delaware General Corporation Law, which requires notice of a meeting not less than 10 nor more than 60 days prior to the meeting.

¹³ See e-mail from Arnold Golub, Associate General Counsel, Nasdaq, to Sharon Lawson, Senior Special Counsel, Division, Commission, on August 23, 2007.

⁶ See, e.g., Securities Exchange Act Release No. 54704 (November 3, 2006), 71 FR 65859 (November 9, 2006) (SR-ISE-2006-44).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Amendment No. 1 dated April 25, 2007.

⁴ See Securities Exchange Act Release No. 55854 (June 4, 2007), 72 FR 32384.

⁵ See Amendment No. 2 dated August 24, 2007 ("Amendment No. 2").

⁶ A foreign private issuer can follow its home country practice regarding distribution of annual reports instead of Nasdaq's rule, if it follows the procedures set forth in Rule 4350(a) regarding disclosure of this non-conforming practice.

⁷ This proposal is similar to a recent change by the New York Stock Exchange LLC to Section 203.01 of its Listed Company Manual. See Securities Exchange Act Release No. 54344 (August 21, 2006), 71 FR 51260 (August 29, 2006) (approving SR-NYSE-2005-68).

⁸ 17 CFR 240.3a12-3(b).

⁹ Common stock equivalents include, but are not limited to: Ordinary shares, shares or certificates of beneficial interest of Trust, American depositary receipts and American depositary shares.

¹⁰ See Amendment No. 2, *supra* note 5.

20-F, or 40-F.¹⁴ Nasdaq proposes to expand the existing Nasdaq rule to allow this disclosure to be made either in the Form F-1, 20-F, or 40-F, as applicable, or, in the alternative, the foreign private issuer may provide these disclosures in English on its Web site. If, however, the disclosure is only available on the foreign private issuer's Web site, the proposal requires that the issuer's annual report and registration statement should state this fact and provide the Web address at which the information may be obtained.

III. Discussion

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 believes that it is consistent with Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the rules of a national securities exchange be designed 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 Exchange has proposed to amend Nasdaq Rule 4350 to permit a company to distribute its annual report by posting it on a Web site and issuing a press release stating that the annual report has been filed with the Commission (or other appropriate regulatory authority), that such annual report is available on the company's publicly available Web site, and that shareholders can receive a hard-copy free of charge upon request. Nasdaq's proposal also states that the annual report requirement is applicable only to issuers of common stock, voting preferred stock, and their equivalents, and that the annual report requirement can be satisfied by providing the company's annual filing with the Commission. The Commission believes that the proposed changes are reasonable because electronic delivery may offer shareholders immediate access to financial information and greater ability to search such information. The Commission also believes that the proposed rule change may lead to significant cost savings for Nasdaq-listed companies, savings that

will ultimately accrue to those companies' shareholders.¹⁷

The Commission also notes that the proposed rule change requires the listed company to issue a press release simultaneously with the posting of the annual report, stating that the annual report is available, listing the Web site where the annual report may be accessed, and requiring the listed company to send paper copies to those shareholders that request one within a reasonable time at no charge. The Commission believes that these steps provide reasonable assurance that stockholders will either be able to access the Web site of the listed company to access the annual report or request a free paper copy.

Nasdaq also proposes to remove a provision related to the timing for delivery of the annual report, because the Exchange notes that the Commission's proxy rules already require that such information be provided before the annual meeting. The Commission believes that this proposal is reasonable, given that state corporate law and Commission rules operate together to determine the timetable for the delivery of annual reports to shareholders.¹⁸

Nasdaq is also removing the rule provision that the annual report be filed with Nasdaq at the same time that it is made available to shareholders. As noted earlier, the Exchange receives immediate notification of listed issuers' filings, and the Commission believes that the proposed change to eliminate this particular filing requirement is reasonable.¹⁹

Further, Nasdaq proposes to make a technical correction to Rule 4350(b)(1)(B), by removing the term "going concern qualification," which is undefined in the accounting literature, and replacing it with language from Statement on Auditing Standards Number 59, which relates to the auditor's consideration of an entity's

ability to continue as a going concern. The Commission agrees with Nasdaq that this change is reasonable because it will remove confusion as to when the rule will apply.

Pursuant to Exchange Rule 4350(a) and IM-4350-6, Nasdaq requires that foreign private issuers disclose all non-conforming governance practices in their Form F-1, 20-F, or 40-F. Nasdaq proposes to expand the existing Nasdaq rule to allow this disclosure to be made either in the Form F-1, 20-F, or 40-F, as applicable, or, in the alternative, the foreign private issuer may provide these disclosures in English on its Web site. If, however, the disclosure is only available on the foreign private issuer's Web site, the proposal requires that the issuer's annual report and registration statement should state this fact and provide the Web address at which the information may be obtained. The Commission believes this proposed change is also reasonable because it will permit investors to utilize the Web to quickly determine if a foreign private issue has any non-conforming corporate governance practices. The Commission also expects that foreign private issuers would update these disclosures to keep them current and accurate.

IV. Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval to the Proposed Rule Change as Amended by Amendments Nos. 1 and 2

In Amendment No. 2, the Exchange modified the proposal to retain the current formulation of Rule 4350(b)(1)(A), so it will apply to all Nasdaq issuers and not just issuers of common stock and voting preferred stock (and their equivalents).²⁰ In Amendment No. 2, the Exchange also clarified that the new annual report requirement can be satisfied by making available to shareholders the company's annual filing with the Commission, including but not limited to Forms 10-K, 20-F, 40-F, or N-CSR.²¹ The Exchange's decision to revert to the rule's original language raises no regulatory issues, as does the Exchange's change to clarify that the Nasdaq-listed issuer can satisfy the new requirement by making clear that the proposed rule text's mentioning of some forms and not others, such as Form 10-KSB, was merely for purposes of illustration and not limitation. Therefore, the Commission finds good cause, consistent with Section 19(b) and 6(b)(5) of the Act, to approve the proposed rule change, as modified by

¹⁴ Nasdaq Rule 4350(a)(1) and IM-4350-6.

¹⁵ The Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ The Commission adopted new Rule 14a-16, 17 CFR 240.14a-16, to facilitate the electronic furnishing of proxy materials to shareholders, including the annual report required by Rule 14a-3(b), 17 CFR 240.14a-3(b). One of the requirements in Rule 14a-16 is that the company must send a Notice of Internet Availability of Proxy Materials to shareholders. See Securities Exchange Act Release Nos. 34-55746 (January 22, 2007) and 34-56135 (July 26, 2007).

¹⁸ Pursuant to Rule 14a-3(b), 17 CFR 240.14a-3(b), the proxy statement for a company's annual meeting at which directors are to be elected must be accompanied or preceded by an annual report. State law requirements also govern the timing that notice of the meeting must be provided. See, e.g., Section 222(b) of the Delaware General Corporation Law, which requires notice of a meeting not less than 10 nor more than 60 days prior to the meeting.

¹⁹ See *supra* note 13 and accompanying text.

²⁰ See Amendment No. 2, *supra* note 5.

²¹ See *id.*

Amendment Nos. 1 and 2, prior to the 30th day after the amendment is published for comment in the **Federal Register**.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed changes in Amendment No. 2 are 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-NASDAQ-2006-045 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.

All submissions should refer to File Number SR-NASDAQ-2006-045. 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 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 publicly available. All submissions should refer to File Number SR-NASDAQ-2006-045 and should be submitted on or before September 20, 2007.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-NASDAQ-2006-045), as modified by Amendment Nos. 1 and 2, be, and 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. E7-17174 Filed 8-29-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56313; File No. SR-NASDAQ-2007-074]

Self-Regulatory Organizations; The NASDAQ Stock Market, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Require Certain Companies to Notify Nasdaq About Any Quarterly Change in the Number of Outstanding Shares

August 23, 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 NASDAQ Stock Market, LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, which items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4,³ which renders the proposal effective upon receipt of this filing by the Commission.⁴ 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

Nasdaq proposes to clarify that when a company is delinquent in a periodic report, Nasdaq will assess the listing of additional shares fee based on the number of shares the company tells Nasdaq it has issued during the period.

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ CFR 240.19b-4(f)(6).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

The text of the proposed rule change is available on the Exchange's Web site (<http://www.nasdaq.com>), at the Exchange's Office of the Secretary, 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, Nasdaq 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. Nasdaq 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 Commission has previously approved fees for the listing of additional shares by domestic Nasdaq-listed companies. Pursuant to Nasdaq rules, these fees are calculated and assessed quarterly based on the company's total shares outstanding as reported on its periodic reports filed with the Commission.

Some Nasdaq companies have recently become delinquent in filing their periodic reports with the Commission, primarily due to investigations into their accounting for stock option grants. Nonetheless, these companies may continue to issue additional shares. Because the existing rule uses a company's public filings to determine the quarterly change in shares outstanding, Nasdaq has been unable to assess additional share fees on these issuers that have not filed periodic reports with the Commission. In order to timely assess and collect the applicable fee in this situation, Nasdaq proposes to modify its rules such that a delinquent company must self-report the change in shares outstanding while it is delinquent. Nasdaq will assess fees based on this reported change in shares outstanding and will reconcile the fee charged with the actual fee due, once the filings are made with the Commission. Nasdaq notes that the proposed rule change has no impact on Nasdaq's substantive requirement that companies timely file required periodic

reports with the Commission,⁵ and only concerns Nasdaq's ability to timely and accurately compute fees. Nasdaq's acceptance of the change in number of shares outstanding pursuant to the proposed rule change shall not be construed as a finding by Nasdaq that the issuer is compliant with the timely filing requirement. Any company that fails to timely file such a report would be reviewed pursuant to the procedures described in the Rule 4800 Series.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act⁶ in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed change would allow Nasdaq to timely and accurately bill companies for their issuances of additional shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the 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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁹ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁰ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission hereby grants the request.¹¹ The proposed rule change will allow Nasdaq to assess additional share fees on companies that have are late in filing a periodic report with the Commission by requiring those filers to self-report the number of shares outstanding.¹²

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Exchange Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² The Commission notes that, as Nasdaq has stated, Nasdaq's acceptance of such updated share figures should not be construed as a finding by Nasdaq that the issuer is compliant with the timely filing requirement and only concerns Nasdaq's ability to timely and accurately compute fees. Any company that fails to timely file such a report would continue to be reviewed pursuant to the procedures described in the Nasdaq's 4800 Series Rules.

Number SR-NASDAQ-2007-074 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.

All submissions should refer to File Number SR-NASDAQ-2007-074. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. 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-NASDAQ-2007-074 and should be submitted on or before September 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Nancy M. Morris,
Secretary.

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⁵ See, e.g., Nasdaq Rules 4310(c)(14) and 4320(e)(12).

⁶ 15 U.S.C. 78f(b)(5).

¹³ 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-56314; File No. SR-NASD-2007-051]

**Self-Regulatory Organizations;
National Association of Securities
Dealers, Inc. (n/k/a Financial Industry
Regulatory Authority, Inc.); Notice of
Filing and Immediate Effectiveness of
Proposed Rule Change To Amend
NASD Rule 7002B To Establish Fees
for the Transfer of Transaction Fees
Through the NASD/Nasdaq Trade
Reporting Facility**

August 23, 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 July 20, 2007, the National Association of Securities Dealers, Inc. (“NASD”) 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 NASD.³ NASD has designated this proposal as “establishing or changing a due, fee, or other charge” under Section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposed rule change effective immediately upon filing. 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 the Substance
of the Proposed Rule Change**

NASD is proposing to amend NASD Rule 7002B to establish a fee for reports that are submitted to the *NASD/Nasdaq* Trade Reporting Facility (the “*NASD/Nasdaq* TRF”) to process transaction fees charged by one member to another member pursuant to NASD Rule 6130(h). In addition, NASD is proposing technical, non-substantive amendments to the NASD Rule 7000 Series to change all references to the “Trade Reporting Facility” to the “*NASD/Nasdaq* Trade Reporting Facility.”

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

**7000B. Charges For NASD/NASDAQ
Trade Reporting Facility Services
7001B. Securities Transaction Credit**

NASD members that trade securities listed on the NYSE (“Tape A”), Amex (“Tape B”), or Nasdaq (“Tape C”) in over-the-counter transactions reported to the *NASD/Nasdaq* Trade Reporting Facility may receive from the *NASD/Nasdaq* Trade Reporting Facility transaction credits based on the transactions attributed to them. A transaction is attributed to a member if the member is identified as the executing party in a trade report submitted to the *NASD/Nasdaq* Trade Reporting Facility that the *NASD/*

Nasdaq Trade Reporting Facility submits to the Consolidated Tape Association or the Nasdaq Securities Information Processor. An NASD member may earn credits from any of three pools maintained by the *NASD/Nasdaq* Trade Reporting Facility. The Tape A, Tape B, and Tape C pools represent 50% of the revenue paid by the Consolidated Tape Association or the Nasdaq Securities Information Processor with respect to the *NASD/Nasdaq* Trade Reporting Facility for each of Tape A, Tape B, and Tape C transactions after deducting the amount, if any, that the *NASD/Nasdaq* Trade Reporting Facility pays to the Consolidated Tape Association or the Nasdaq Securities Information Processor for capacity usage. An NASD member may earn credits from the pools according to the pro rata share of revenue attributable to over-the-counter transactions reported to the *NASD/Nasdaq* Trade Reporting Facility by the member in each of Tape A, Tape B, and Tape C for each calendar quarter. Credits will be paid on a quarterly basis. 7002B. *NASD/Nasdaq* Trade Reporting Facility Reporting Fees

The following charges shall be paid by participants for use of the *NASD/Nasdaq* Trade Reporting Facility. In the case of trades where the same market participant is on both sides of a trade report, applicable fees assessed on a “per side” basis will be assessed once, rather than twice.

Transaction related charges:	
Reporting of transactions in Nasdaq-listed securities not subject to comparison through the <i>NASD/Nasdaq</i> Trade Reporting Facility.	No charge.
Reporting of transactions in stocks reported to the Consolidated Tape Association not subject to comparison through the <i>NASD/Nasdaq</i> Trade Reporting Facility (“CTA Covered Transactions”).	
Average daily volume of media transaction reports for CTA Covered Transactions during the month that are submitted or introduced by such participant to the <i>NASD/Nasdaq</i> Trade Reporting Facility, in which the participant is identified as the reporting party.	Fee per side for reports of CTA Covered Transactions to which such participant is a party.
0 to 5,000	\$0.029
More than 5,000	\$0.029 for a number of reports equal to 5,000 times the number of trading days in the month. \$0.00 for all remaining reports.
Reporting of all other transactions not subject to comparison through the <i>NASD/Nasdaq</i> Trade Reporting Facility.	\$0.029/side.
Clearing report to transfer a transaction fee charged by one member to another member pursuant to Rule 6130(h).	\$0.03/side.
Comparison	\$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares).
Late Report—T+N	\$0.288/side.
Query	\$0.50/query.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 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 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) 72 FR 42190 (August 1, 2007).

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

Transaction related charges:	
Corrective Transaction Charge	\$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; \$0.25/Break, Decline transaction, paid by each party.

7003B. Aggregation of Activity of Affiliated Members

(a) For purposes of applying any provision of the Rule 7000B Series that reflects a charge assessed, or credit provided, by the *NASD/Nasdaq* Trade Reporting Facility, a member may request that the *NASD/Nasdaq* Trade Reporting Facility aggregate its activity with the activity of its affiliates. A member requesting aggregation of affiliate activity shall be required to certify to NASD the affiliate status of entities whose activity it seeks to aggregate prior to receiving approval for aggregation, and shall be required to inform NASD immediately of any event that causes an entity to cease to be an affiliate. In addition, NASD reserves the right to request information to verify the affiliate status of an entity.

(b) For purposes of applying any provision of the Rule 7000B Series that reflects a charge assessed, or credit provided, by the *NASD/Nasdaq* Trade Reporting Facility, references to an entity (including references to a "member," a "participant," or a "Trade Reporting Facility Participant") shall be deemed to include the entity and its affiliates that have been approved for aggregation.

(c) No Change.

7004B. Late Fees

(a) All charges imposed by the *NASD/Nasdaq* Trade Reporting Facility that are past due 45 days or more will be subject to a late fee computed by taking the summation of one and one-half percent (1½%) of the amount past due for the first month plus one and one-half percent (1½%) of the amount past due for any month thereafter, compounded by late fees assessed for previous months.

(b) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

NASD recently filed a proposed rule change for immediate effectiveness to allow NASD members to use the NASD/Nasdaq TRF to process transaction fees charged by one member to another member on trades in NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act, effected otherwise than on an exchange.⁶ NASD Rule 6130(h) provides that members may agree in advance to such transfers through the submission of a clearing report. Such report, inclusive of the transaction fee, will be submitted to the National Securities Clearing Corporation for processing. To facilitate the transfer of the transaction fee, the report submitted to the NASD/Nasdaq TRF shall provide, in addition to all other information required to be submitted by any other rule, a total per share or contract price amount, inclusive of the transaction fee. NASD Rule 6130(h) relates solely to transaction fees charged by one NASD member to another NASD member. Members cannot use the NASD/Nasdaq TRF to facilitate the transfer of fees for transactions with a customer (i.e., clients that are not brokers or dealers) or a non-member.

NASD is proposing to establish the fee to be charged by the NASD/Nasdaq TRF for the use of this service.⁷ Pursuant to NASD Rule 7002B, the fee will be \$0.03 per side for each clearing report submitted to the NASD/Nasdaq TRF to transfer a transaction fee. This fee is in addition to any other fee applicable to the transaction.

In addition, NASD is proposing technical, non-substantive amendments to the NASD Rule 7000 Series to change all references to the "Trade Reporting Facility" to the "NASD/Nasdaq Trade Reporting Facility." These changes are consistent with the NASD Rule 7000C

⁶ See Securities Exchange Act Release No. 56007 (July 3, 2007), 72 FR 37807 (July 11, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-046). SR-NASD-2007-046 became operative on July 9, 2007.

⁷ NASD did not propose any fees for this service as part of SR-NASD-2007-046.

Series (relating to the NASD/NSX Trade Reporting Facility), 7000D Series (relating to the NASD/BSE Trade Reporting Facility), and 7000E Series (relating to the NASD/NYSE Trade Reporting Facility).

NASD has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be August 1, 2007.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁸ in general, and with Section 15A(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASD operates or controls. NASD believes that the fees are reasonably allocated among members based on their usage of the functionality to transfer explicit fees, and are generally consistent with other fees charged by the NASD/Nasdaq TRF for value added services.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and Rule 19b-4(f)(2)¹¹ thereunder, because it involves a member due, fee, or other charge. At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

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, as amended, 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-NASD-2007-051 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-NASD-2007-051. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2007-051 and should be submitted on or before September 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris,

Secretary.

[FR Doc. E7-17166 Filed 8-29-07; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board Public Meeting

Pursuant to the Federal Advisory Committee Act, Appendix 2 of Title 5, United States Code, Public Law 92-463, notice is hereby given that the U.S. Small Business Administration (SBA), National Small Business Development Center (SBDC) Advisory Board, will be hosting a public federal meeting on Monday, September 17, 2007, from 3 p.m. to 4 p.m. The meeting will be held at the Hyatt Regency Colorado Convention Center, 650 15th Street, Denver, CO 80202. The purpose of the meeting is to discuss advisory board matters that may be presented by members and the staff of the U.S. Small Business Administration (SBA).

Anyone wishing to attend the National Small Business Development Center Advisory Board meeting must contact Alanna Falcone, Program Analyst, U.S. Small Business Administration, Office of Small Business Development Centers, 409 Third Street, SW., Washington, DC 20416, telephone (202) 619-1612 or fax (202) 481-0134.

Matthew Teague,

Committee Management Officer.

[FR Doc. 07-4261 Filed 8-29-07; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 5922]

Culturally Significant Objects Imported for Exhibition Determinations: "Art & Emancipation in Jamaica: Isaac Mendes Belisario and His Worlds"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as

amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Art & Emancipation in Jamaica: Isaac Mendes Belisario and His Worlds," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Yale Center for British Art, New Haven, Connecticut, from on or about September 27, 2007, until on or about December 30, 2007, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-453-8052). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 27, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7-17312 Filed 8-29-07; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Alexandria International Airport, Alexandria, LA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by England Economic and Industrial Developmental District under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as "the Act") and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On January 26, 2006, the FAA determined that the noise exposure maps submitted by England Economic and Industrial Development District under part 150

¹² 17 CFR 200.30-3(a)(12).

were in compliance with applicable requirements. On August 14, 2007, the FAA approved the Alexandria International Airport noise compatibility program. All eight of the recommendations of the program were approved in full. The England Economic and Industrial Development District has also requested under FAR Part 150, section 150.35(f), that FAA determine that the revised noise exposure map for the year 2010 submitted with the noise compatibility program and showing future noise contours as a result of the implementation of the noise compatibility program is in compliance with applicable requirements of Federal Aviation Regulations (FAR) Part 150. The FAA announces its determination that the revised future noise exposure map for Alexandria International Airport, submitted with the noise compatibility program, is in compliance with applicable requirements of FAR Part 150 effective August 22, 2007. The documentation that constitutes the "noise exposure map" as defined in section 150.7 of Part 150 includes: Figure 2.1, Existing Land Use Map; Figure 3.2, Existing Airport Layout; Figure 4.1, Aviation Activity Forecast; Figure 4.2, Future Airport Layout; Figure 4.3, 2010 Future Condition North Flow Flight Tracks; Figure 4.4, 2010 Future Condition South Flow Flight Tracks; Table 3.2, Flight Track Utilization Rates; Table 4.1, 2010 Runway and Helipad Utilization Rates; Table 4.2, 2010 Flight Track Utilization Rates; Appendix A, Aviation Activity Forecast; Appendix B, Integrated Noise Model Inputs; Table 7.1, Alternative 1 Noise Exposure Estimates; Figure 7.1, RAD14 and RAD14X Departure Tracks; Figure 7.2, Alternative 1 Noise Contours; Table 7.2, Alternative 2 Noise Exposure Estimates; Figure 7.5, Runway 32 Arrival Tracks; Figure 7.6, Alternative 2 Noise Contours; Table 7.4, Summary of Noise Exposure Estimates; and Figure 7.9, 2010 Future Condition Noise Exposure Map with Program Implementation. The FAA has determined that this noise exposure map and accompanying documentation are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's approval of the Alexandria International Airport noise compatibility program is August 14, 2007. The effective date of the FAA's determination on the revised noise exposure maps is August 22, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Tandy, Federal Aviation Administration, ASW-640, Fort Worth, TX 76193-0640 at (817) 222-5644.

Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This noise announces that the FAA has given its overall approval to the noise compatibility program for Alexandria International Airport, effective August 14, 2007, and that the revised noise exposure map for the year 2010 for this same airport is determined to be in compliance with applicable requirements of FAR Part 150.

A. Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with FAR Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in FAR Part 150 and the Act and is limited to the following determinations:

1. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;
2. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;
3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and
4. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA regional office in Fort Worth, Texas.

England Economic and Industrial Development District submitted to the FAA on January 31, 2007, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from 2001 through 2007. The Alexandria International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 26, 2006. Notice of this determination was published in the **Federal Register** on April 13, 2007.

The Alexandria International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from 2008 to the year 2015. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on April 9, 2007, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained eight proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective August 14, 2007.

Outright approval was granted for all eight of the specific program elements, which are summarized as follows: Program Recommendation (1), whereby military aircraft departing from Runway 14 would voluntarily use departure track RAD14X, instead of RAD14; Program Recommendation (2), whereby military aircraft arriving to Runway 32 would voluntarily use arrival track A32B, instead of VOR32; Program Recommendation (3), involving the opportunity within the Primary Area for fee simple acquisition and relocation assistance regarding eligible properties (eligible vacant residential properties are limited to those considered infill among established residential areas); Program Recommendation (4), involving the opportunity within the Primary Area for aviation easement acquisition regarding eligible properties whose owners decline to participate in the fee simple acquisition program; Program Recommendation (5), involving the opportunity within the Primary Area for acoustical treatment of eligible properties whose owners decline to participate in the fee simple acquisition and relocation program or the aviation easement acquisition program (acquisition of an aviation easement or similar interest is recommended by FAA as a condition of participation in this measure); Program Recommendation (6), involving the airport sponsor's management of acquired property and preparation of a redevelopment plan; Program Recommendation (7), involving the opportunity within the Secondary Area for acquisition of aviation easements for all eligible residential, infill vacant residential properties, and one church; and Program Recommendation (8), involving the opportunity within the Secondary Area for acoustical treatment of all single-family residential properties and one church.

These determinations are set forth in detail in a Record of Approval signed by the FAA Southwest Region, Airports Division Manager on August 14, 2007. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the England Economic and Industrial Development District. The Record of Approval also will be available on-line at <http://www.faa.gov/arp/environmental/14cfr150/index14.cfm>.

The FAA also has completed its review of the revised noise exposure maps and related descriptions submitted by England Economic and Industrial Development District. The

specific map under consideration is Figure 7.9 in the submission. The FAA has determined that this map for Alexandria International Airport is in compliance with applicable requirements. This determination is effective on August 22, 2007. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under FAR Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps, and copies of the record of approval and other evaluation materials and documents which comprised the submittal to the FAA are available for examination at the following locations:

Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas; England Economic and Industrial Development District, 1611 Arnold Drive, Alexandria, Louisiana. Questions on either of these FAA determinations may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, August 22, 2007.

D. Cameron Bryan,

Acting Manager, Airports Division.

[FR Doc. 07-4245 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventy-Third Meeting, RTCA Special Committee 159: Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Global Positioning System (GPS).

DATES: The meeting will be held September 17–21, 2007, from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting. The plenary agenda will include:

- September 17:
 - All Day, Working Group 2C, GPS/Inertial, MacIntosh–NBAA Rom & Hilton–ATA Room.
 - All Day, Working Group 8, GPS/GRAS, Garmin Room.
 - Afternoon (1–4:30 p.m.), Working Group 6, GPS/Interference, Colson Board Room.
- September 18:
 - All Day, Working Group 2, Wide Area Augmentation System (GPS/WAAS), Colson Board Room.
 - All Day, Working Group 4, Precision Landing Guidance (GPS/LAAS), MacIntosh–NBAA Room & Hilton–ATA Room.
 - All Day, Working Group 6, GPS/Interference, ARINC Room.
- September 19:
 - Morning (9–12 p.m.), Working Group 2, Wide Area Augmentation System (GPS/WAAS), Colson Board Room.
 - Morning (9 a.m.–12 p.m.), Working Group 4, Precision Landing

- Guidance (GPS/LAAS), MacIntosh–NBAA Room & Hilton–ATA Room.
- Morning (9–12 p.m.), Working Group 6, GPS/Interference, ARINC Room.
- Afternoon (1–4:30 p.m.), Joint Working Groups 2, 4, 6, 7 & 8, MacIntosh–NBAA Room & Hilton–ATA Room. Note: Agenda for this session—Pre-FRAC discussion on the revised DO–235A.
- September 20:
 - Morning (9–12 p.m.), Working Group 4, Precision Landing Guidance (GPS/LAAS), MacIntosh–NBAA Room & Hilton–ATA Room.
 - Morning (9–12 p.m.), Working Group 7, GPS/Antennas, Colson Board Room.
 - Morning (9–12 p.m.), Working Group 8, GPS/GRAS, Garmin Room.
 - Afternoon (1–4:30 p.m.), Working Groups, 2, 4, 6, 7, & 8, MacIntosh–NBAA Room & Hilton–ATA Room. Note: Agenda for this session—Discussion on future documents, Terms of Reference and GPS velocity accuracy characterization for ADS–B.
- September 21:
 - Chairman's Introductory Remarks.
 - Approval of Summary of the Seventy-Second Meeting held May 4, 2007, RTCA Paper No. 110–07/SC159–950.
 - Review Working Group (WG) Progress and Identify Issues for Resolution.
 - GPS/3rd Civil Frequency (WG–1).
 - GPS/WAAS (WG–2).
 - GPS/GLONASS (WG–2A).
 - GPS/Inertial (WG–2C).
 - GPS/Precision Landing Guidance and (WG–4).
 - GPS/Airport Surface Surveillance (WG–5).
 - GPS/Interference (WG–6).
 - GPS/Antennas (WG–7).
 - GPS/GRAS (WG–8).
 - Review of EUROCAE activities.
 - Consider for Approval—new document—*Minimum Operational Performance Standards for Ground-Based Regional Augmentation System Airborne Equipment*, RTCA Paper No. 148–07/SC 159–951.
 - Status/Plan for the Review and Approval of the revised DO–235A—*Assessment of Radio Frequency Interference Relevant to the GNSS*.
 - Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited by space availability. With the approval of the chairmen, members of the public may present oral

statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 21, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–4246 Filed 8–29–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fiftieth Meeting, RTCA Special Committee 135: Environmental Conditions and Test Procedures for Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 135 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 135: Environmental Conditions and Test Procedures for Airborne Equipment. **DATES:** The meeting will be held September 25–27, 2007 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW., Suite 805, Colson Board Room, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 135 meeting. The agenda will include:

- September 25–27:
 - Opening Session (Welcome, Chairman's Opening Remarks, Introductions).
 - Approval of Summary from the Forty-Ninth Meeting, RTCA Paper No. 196–SC135–662.
 - Review Working Group Activities.
 - Section 16, Power Input.
 - Section 20, Radio Frequency Susceptibility (Radiated and Conducted).
 - Section 21, Emission of Radio Frequency Energy.
 - Final Review/Approval—Revised DO–160E.
 - Review Schedule to Release DO–

1620F.

- Closing Plenary Session (New/Unfinished Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 21, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–4247 Filed 8–29–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourteenth Meeting: RTCA Special Committee 207/Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 207 Meeting, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 207, Airport Security Access Control Systems.

DATES: The meeting will be held September 20, 2007 from 9:30 a.m.–4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 207 meeting. The agenda will include:

- September 20:
 - Opening Plenary Session (Welcome, Introductions, and Administrative Remarks).
 - Review of Meeting Summary.
 - Review of Workgroup Leaders Meetings.
 - Workgroup Reports.
 - Workgroup 2: Introduction.

- Workgroup 3: Local Identity Management System.
- Workgroup 4: Physical Access Control.
- Workgroup 5: Intrusion Detection Systems.
- Workgroup 6: Video Systems.
- Workgroup 7: Security Operating Center.
- Workgroup 8: Communications Infrastructure.
- Workgroup 9: General Considerations.
- Workgroup 10: Appendices.
- Closing Plenary Session (Other Business, Establish Agenda, Date and Place of Following Meetings).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 15, 2007.

Francisco Estrada C.,
RTCA Advisory Committee.

[FR Doc. 07-4248 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting, RTCA Special Committee 216: Aeronautical System Security

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 216 meeting Aeronautical Systems Security.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 216: Aeronautical Systems Security.

DATES: The meeting will be held on October 10-11, 2007, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036-5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 2036-5133; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-

463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 2216 meeting. The agenda will include:

- October 10-11:
- Opening Session (Welcome, Introductory and Administrative Remarks, Agenda Overview).
- RTCA Functional Overview.
- Industry Activities Related to Security-Review.
- Committee Scope—Terms of Reference.
 - Presentation, Discussion, Recommendations.
- European Security Initiatives-Overview.
- Organization of Work, Assign Tasks and Workgroups.
 - Presentation, Discussion, Recommendations.
 - Assignment of Responsibilities.
- Consider/Review Liaison with Other Active Committees.
- Closing Session (Other Business, Assignment/Review of Future Work, Establish Agenda, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 21, 2007.

Francisco Estrada C.,
RTCA Advisory Committee.

[FR Doc. 07-4249 Filed 8-29-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on United States Highway 281 in Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, United States Highway 281 (US 281), north of San Antonio, beginning at Loop 1604 and heading north to Borgfeld Road in Bexar County in the

State of Texas. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 26, 2008. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, Federal Highway Administration, 300 E. 8th Street, Rm. 826, Austin, Texas 78701; telephone: (512) 536-5950; e-mail: salvador.deocampo@fhwa.dot.gov. The FHWA Texas Division Office's normal business hours are 7:45 a.m. to 4:15 p.m. You may also contact Ms. Dianna Noble, Texas Department of Transportation, 125 E. 11th Street, Austin, Texas 78701; telephone: (512) 416-2734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: United States Highway 281 (US 281), north of San Antonio, beginning at Loop 1604 and heading north to Borgfeld Road in Bexar County in the State of Texas. The project will be an approximately 7.5 mile long, six-lane tollway with grade separations at all intersecting roadways (i.e. a fully access-controlled facility) with full length frontage roads. The proposed highway will follow the existing US 281 alignment. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, dated May 2007, in the FHWA Finding of No Significant Impact (FONSI) issued on August 14, 2007, and in other documents in the FHWA project records. The EA, FONSI, and other documents in the FHWA project records file are available by contacting the FHWA or the Texas Department of Transportation at the addresses provided above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319).

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: August 21, 2007.

Achille Alonzi,

Assistant Division Administrator, Austin, Texas.

[FR Doc. 07–4258 Filed 8–29–07; 8:45 am]

BILLING CODE 4910-RY-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification

of the signal system or relief from the requirements of 49 CFR part 236, as detailed below.

Docket Number: FRA–2006–25630.

Applicant: Union Pacific Railroad, Mr. W.E. Wimmer, Vice President Engineering, 1400 Douglas Street, Stop 0910, Omaha, Nebraska 68179.

The Union Pacific Railroad Company (UP) has requested that FRA review its September 20, 2006, decision to deny the UP waiver request identified as Docket Number FRA–2006–25630. UP seeks approval of the proposed petition for waiver from certain portions of 49 CFR Parts 234 and 236 pertaining to monthly inspections, observations, and tests. UP requests that rules presently reading “at least once each month” be modified to read “at least once each calendar month with at least 20 calendar days interval between” the applicable inspection, observation, or test.

The reason UP has given for the proposed changes is that its signal department does not have dedicated inspectors to conduct monthly inspections. UP points out that the nature of signal business is better served when the person doing the inspections is also the person who does the maintenance. While responsible for most of their signal inspections, UP’s signal maintainers also work in support of other engineering groups and need to participate in rail replacement, switch component renewal, road crossing work, and a variety of other track-related activities. Given this support-role requirement, UP says it is very difficult for its signal maintainers to commit specific days of the month to complete each of their required inspections, rendering the need to be able to move their scheduled inspections a few days ahead or back.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, including a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

All communications concerning this proceeding should be identified by Docket Number FRA–2006–25630 and

may be submitted by one of the following methods:

- **Web site:** <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic site;
- **Fax:** 202–493–2251;
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; or
- **Hand Delivery:** Room W12–140 of the U.S. Department of Transportation, West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility’s Web site at <http://dms.dot.gov>.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

Issued in Washington, DC, on August 24, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–17189 Filed 8–29–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Finance Docket No. 35073]****Northwestern Pacific Railroad Company—Change in Operators Exemption—North Coast Railroad Authority, Sonoma-Marín Area Rail Transit District and Northwestern Pacific Railway Co., LLC¹**

Northwestern Pacific Railroad Company (NWPCO), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to change operators from Northwestern Pacific Railway Co., LLC (NWPY) to NWPCO on a line of railroad owned by North Coast Railroad Authority (NCRA) and Sonoma-Marín Area Rail Transit District (SMART). The line, entirely within California, includes: (1) The Willits Segment extending from NWP milepost 142.5 near Outlet Station to NWP milepost 68.22 near Healdsburg, a distance of approximately 74.3 miles; (2) the Healdsburg Segment extending from NWP milepost 68.2 near Healdsburg to NWP milepost 26.96 near Novato, a distance of approximately 41.2 miles; (3) the Novato Segment extending from milepost 26.96 near Novato to NWP milepost 25.6 near Ignacio, a distance of approximately 1.4 miles; and (4) the Lombard Segment extending from NWP milepost 25.6 near Ignacio to Lombard Station in Napa County, SP milepost 63.4, a distance of approximately 25.3 miles. These segments ("the Line") total approximately 142 miles.² This change in operators is exempt under 49 CFR 1150.31(a)(3).³

¹ This notice corrects the notice published on August 24, 2007, at 72 FR 48729, which erroneously stated the earliest date for consummation of this transaction to be August 16, 2007 and, in one instance, misstated the docket number.

² NCRA acquired the authority to operate the Line pursuant to *North Coast Railroad Authority—Lease and Operation Exemption—California Northern Railroad Company, Northwestern Pacific Railroad Authority, and Golden Gate Bridge, Highway and Transportation District*, STB Finance Docket No. 33115 (STB Served Sept. 27, 1996). In turn, NCRA contracted its surface freight easement rights on the Line to NWPY pursuant to *Northwestern Pacific Railway Co., LLC—Lease and Operation Exemption—North Coast Railroad Authority, Northwestern Pacific Railroad Authority and Golden Gate Bridge, Highway and Transportation District*, STB Finance Docket No. 33998 (STB served Feb. 6, 2001). SMART obtained an ownership interest in the southern portion of the Line pursuant to *Sonoma-Marín Area Rail Transit District—Acquisition Exemption—Northwestern Pacific Railroad Authority*, STB Finance Docket No. 34400 (STB served Mar. 10, 2004).

³ In order to qualify for a change in operators exemption, an applicant must give notice to shippers on the line. See 49 CFR 1150.32(b). NWPCO has certified that it gave notice of the

NWPCO certifies that upon consummation of the transaction, it will become a Class III rail carrier, that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier, and that such revenues would not exceed \$5 million annually. NWPCO indicates that it intends to consummate the transaction on or after September 8, 2007, which is the earliest the transaction can be consummated (30 days after the exemption was filed).⁴

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by August 31, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35073, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 395 E Street, SW., Washington, DC 20523-0001. In addition, a copy of each pleading must be served on Douglas H. Bosco, Northwestern Pacific Railroad Company, 37 Old Courthouse Square, Suite 200, Santa Rosa, CA 95404, and Robert A. Wimbish, Baker & Miller, PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: August 24, 2007.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E7-17164 Filed 8-29-07; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY**Open Meeting of the Financial Literacy and Education Commission**

AGENCY: Departmental Offices, Treasury.
ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Financial Literacy and Education Commission, established by

proposed transaction to affected shippers concurrently with the filing of this notice of exemption.

⁴ This transaction renders moot the notice of exemption filed in STB Docket No. 34842, *Sonoma-Marín Area Rail Transit District—Acquisition Exemption—Northwestern Pacific Railroad*, which will be dismissed in a separate decision.

the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: The twelfth meeting of the Financial Literacy and Education Commission will be held on Tuesday, September 25, 2007, beginning at 10 a.m.

ADDRESSES: The Financial Literacy and Education Commission meeting will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Ave., NW., Washington, DC. To be admitted to the Treasury building, an attendee must RSVP by providing his or her name, organization, phone number, date of birth, Social Security number and country of citizenship to the Department of the Treasury by e-mail at: FLECrsvp@do.treas.gov, or by telephone at: (202) 622-5770 (not a toll-free number) not later than 5 p.m. on Wednesday, September 19, 2007.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Tom Kurek by e-mail at:

thomas.kurek@do.treas.gov or by telephone at (202) 622-0204 (not a toll free number). Additional information regarding the Financial Literacy and Education Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at: <http://www.treas.gov/financialeducation>.

SUPPLEMENTARY INFORMATION: The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the "FACT Act") (Pub. L. 108-159), established the Financial Literacy and Education Commission (the "Commission") to improve financial literacy and education of persons in the United States. The Commission is composed of the Secretary of the Treasury and the head of the Office of the Comptroller of the Currency; the Office of Thrift Supervision; the Federal Reserve; the Federal Deposit Insurance Corporation; the National Credit Union Administration; the Securities and Exchange Commission; the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs; the Federal Trade Commission; the General Services Administration; the Small Business Administration; the Social Security Administration; the Commodity Futures Trading Commission; and the Office of Personnel Management. The Commission is required to hold

meetings that are open to the public every four months, with its first meeting occurring within 60 days of the enactment of the FACT Act. The FACT Act was enacted on December 4, 2003.

The twelfth meeting of the Commission, which will be open to the public, will be held in the Cash Room

at the Department of the Treasury, located at 1500 Pennsylvania Ave., NW., Washington, DC. The room will accommodate 80 members of the public. Seating is available on a first-come basis. Participation in the discussion at the meeting will be limited to

Commission members, their staffs, and special guest presenters.

Dated: August 20, 2007.

Dan Iannicola, Jr.,

Deputy Assistant Secretary for Financial Education.

[FR Doc. E7-17154 Filed 8-29-07; 8:45 am]

BILLING CODE 4811-42-P



Federal Register

**Thursday,
August 30, 2007**

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

**Migratory Bird Hunting; Early Seasons
and Bag and Possession Limits for
Certain Migratory Game Birds in the
Contiguous United States, Alaska, Hawaii,
Puerto Rico, and the Virgin Islands; Final
Rule**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AV12

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits taking of designated species during the 2007–08 season.

DATES: This rule is effective on September 1, 2007.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia. You may obtain copies of referenced reports from the address above or from the Division of Migratory Bird Management's Web site at <http://www.fws.gov/migratorybirds/reports/reports.html>.

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:**Regulations Schedule for 2007**

On April 11, 2007, we published in the **Federal Register** (72 FR 18328) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, proposed regulatory alternatives for the 2007–08 duck hunting season, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major

steps in the 2007–08 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the April 11 proposed rule. On June 8, 2007, we published in the **Federal Register** (72 FR 31789) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations and the regulatory alternatives for the 2007–08 duck hunting season. The June 8 supplement also provided detailed information on the 2007–08 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

On June 20 and 21, 2007, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2007–08 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2007–08 regular waterfowl seasons. On July 23, 2007, we published in the **Federal Register** (72 FR 40194) a third document specifically dealing with the proposed frameworks for early-season regulations. On August 28, 2007, we published a fourth document in the **Federal Register** which contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits.

On August 1–2, 2007, we held open meetings with the Flyway Council Consultants at which the participants reviewed the status of waterfowl and developed recommendations for the 2007–08 regulations for these species. Proposed hunting regulations were discussed for late seasons. We published proposed frameworks for the 2007–08 late-season migratory bird hunting regulations in a late August 2007 **Federal Register**.

The final rule described here is the sixth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for mourning,

white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; mourning doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; youth waterfowl hunting day; and some extended falconry seasons.

National Environmental Policy Act Consideration

NEPA considerations are covered by the programmatic document “Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSSES 88–14),” filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Annual NEPA considerations are covered under a separate Environmental Assessment (EA), “Duck Hunting Regulations for 2007–08,” and an August 2007, Finding of No Significant Impact (FONSI). Copies of the EA and FONSI are available upon request from the address indicated under **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). A scoping report summarizing the scoping comments and scoping meetings is available either at the address indicated under **ADDRESSES** or on our Web site at <http://www.fws.gov/migratorybirds>.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, “The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act” (and) shall “insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *.” Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened

species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–96, updated in 1998, and updated again in 2004. It is further discussed under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of \$734 to \$1,064 million, with a mid-point estimate of \$899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.migratorybirds.gov>.

This year, due to limited data availability, we partially updated the 2004 analysis, but restricted our analysis to duck hunting. Results indicate that the total consumer surplus of the annual duck hunting frameworks is on the order of \$222 to \$360 million, with a mid-point estimate of \$291 million. We plan to perform a full update of the analysis in 2008. Copies of the updated analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-2007Update.pdf>.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the

Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between \$481 million and \$1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.fws.gov/migratorybirds>.

This year, due to limited data availability, we partially updated the 2004 analysis, but restricted our analysis to duck hunting. Results indicate that the duck hunters would spend between \$291 million and \$473.5 million at small businesses in 2007. We plan to perform a full update of the analysis in 2008 when the full results from the 2006 National Hunting and Fishing Survey is available. Copies of the updated analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at <http://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-2007Update.pdf>.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of \$100 million or more. However, because it establishes hunting seasons, we do not plan to defer the effective date required by 5 U.S.C. 801 under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 2/29/2008). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest

estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 11/30/2007). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population.

A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

In promulgating this rule, we have determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 11 proposed rule (72 FR 18328) we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2007–08 migratory bird hunting season. The resulting proposals will be contained in a separate proposed rule. By virtue of these actions, we have consulted with all the Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the

States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits, to communicate those selections to us, and

to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 22, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

■ For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub. L. 106–108.

BILLING CODE 4310–55–P

-Note - The following annual hunting regulations provided for by §§20.101 through 20.106 and 20.109 of 50 CFR 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.101 is revised to read as follows:

§20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) Puerto Rico

	Season Dates	Limits	
		Bag	Possession
Doves and Pigeons			
Zenaida, white-winged, and mourning doves (1)	Sept. 1-Oct. 29	15	15
Scaly-naped pigeons	Sept. 1-Oct. 29	5	5
Ducks	Nov. 10-Dec. 17 & Jan. 12-Jan. 28	6 6	12 12
Common Moorhens	Nov. 10-Dec. 17 & Jan. 12-Jan. 28	6 6	12 12
Common Snipe	Nov. 10-Dec. 17 & Jan. 12-Jan. 28	8 8	16 16

(1) Not more than 3 may be mourning doves.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, and Caribbean coot, white-crowned pigeon and plain pigeon.

Closed Areas: Closed areas are described in the July 23, 2007, Federal Register (72 FR 40194).

(b) Virgin Islands

	Season Dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1-Sept. 30	10	10
Ducks	CLOSED		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds.

3. Section 20.102 is revised to read as follows:

§20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area Seasons	Dates
North Zone	Sept. 1-Dec. 16
Gulf Coast Zone	Sept. 1-Dec. 16
Southeast Zone	Sept. 1-Dec. 16
Pribilof & Aleutian Islands Zone	Oct. 8-Jan. 22
Kodiak Zone	Oct. 8-Jan. 22

Daily Bag and Possession Limits						
Area	Ducks (1)	Dark Geese (2)(3)(4)	Light Geese (2)	Brant(2)	Common Snipe	Sandhill Cranes (5)
North Zone	10-30	4-8	4-8	2-4	8-16	3-6
Gulf Coast Zone	8-24	4-8	4-8	2-4	8-16	2-4
Southeast Zone	7-21	4-8	4-8	2-4	8-16	2-4
Pribilof and Aleutian Islands Zone	7-21	4-8	4-8	2-4	8-16	2-4
Kodiak Zone	7-21	4-8	4-8	2-4	8-16	2-4

(1) The basic duck bag limits may include no more than 1 canvasback daily, 3 in possession, and may not include sea ducks. In addition to the basic duck limits, sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks, are allowed. Special sea duck limits will be available to non-residents, but at lower daily limits than residents, and they may take no more than a possession limit of 20 per season, including no more than 4 each of harlequin and long-tailed ducks, black, surf, and white-winged scoters, and king and common eiders. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) Dark geese include Canada and white-fronted geese. Light geese include snow geese and Ross' geese. Separate limits apply to brant. The season for emperor geese is closed Statewide.

(3) In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only, with a maximum of 10 permits and a daily bag and possession limit of 1. The season shall close if incidental harvest includes 5 dusky Canada geese.

(4) In Units 9, 10, 17, and 18, dark goose limits are 6 per day, 12 in possession; however, no more than 2 may be Canada geese in Units 9(E) and 18; and no more than 4 may be Canada geese in Units 9(A-C), 10 (Unimak Island portion), and 17.

(5) In Unit 17, the daily bag limit for sandhill cranes is 2 and the possession limit is 4.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day, 6 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Units 17, 18, 22, and 23, there will be a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by registration permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report after the season is completed. Up to 500 permits may be issued in Unit 18, 300 permits each in Units 22 and 23, and 200 permits in Unit 17.

4. Section 20.103 is revised to read as follows:

§20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) Doves

Note: Unless otherwise specified, the seasons listed below are for mourning doves only.

		Season Dates	Bag	Limits Possession
<u>EASTERN MANAGEMENT UNIT</u>				
<u>Alabama</u> (1)				
North Zone				
12 noon to sunset	Sept. 15 only		15	15
½ hour before sunrise				
to sunset	Sept. 16-Oct. 7 &		15	15
	Oct. 27-Nov. 17 &		15	15
	Dec. 15-Dec. 29		15	15
South Zone				
12 noon to sunset	Oct. 6 only		12	12
½ hour before sunrise				
to sunset	Oct. 7-Nov. 4 &		12	12
	Nov. 22-Nov. 25 &		12	12
	Dec. 8-Jan. 12		12	12
<u>Delaware</u>				
	Sept. 1-Sept. 29 &		12	24
	Oct. 16-Oct. 27 &		12	24
	Dec. 15-Jan. 12		12	24
<u>Florida</u> (1)				
12 noon to sunset	Oct. 6-Oct. 29		12	24
½ hour before sunrise				
to sunset	Nov. 10-Nov. 25 &		12	24
	Dec. 8-Jan. 6		12	24
<u>Georgia</u>				
12 noon to sunset	Sept. 1 & Oct. 6		12	24
½ hour before sunrise				
to sunset	Sept. 2-Sept. 15 &		12	24
	Oct. 7-Oct. 15 &		12	24
	Nov. 22-Jan. 5		12	24
<u>Illinois</u>				
sunrise to sunset	Sept. 1-Oct. 21 &		15	30
	Nov. 3-Nov. 11		15	30
<u>Indiana</u>				
	Sept. 1-Oct. 13 &		15	30
	Nov. 9-Nov. 25		15	30
<u>Kentucky</u> (1)				
11 a.m. to sunset	Sept. 1 only		15	30
½ hour before sunrise				
to sunset	Sept. 2-Oct. 24 &		15	30
	Nov. 22-Nov. 27		15	30
<u>Louisiana</u> (1)				
North Zone				
12 noon to sunset	Sept. 1 only		12	24
½ hour before sunrise				
to sunset	Sept. 2-Sept. 16 &		12	24
	Oct. 13-Nov. 11 &		12	24
	Dec. 15-Jan. 7		12	24

	Season Dates	Bag	Limits Possession
<u>Louisiana (cont.)</u>			
South Zone			
12 noon to sunset	Sept. 1 only		
½ hour before sunrise			
to sunset	Sept. 2-Sept. 9 &	12	24
	Oct. 13-Nov. 25 &	12	24
	Dec. 22-Jan. 7	12	24
<u>Maryland</u>			
12 noon to sunset	Sept. 1-Oct. 13	12	24
½ hour before sunrise			
to sunset	Nov. 10-Nov. 23 &	12	24
	Dec. 22-Jan. 3	12	24
<u>Mississippi (1)</u>			
North Zone			
	Sept. 1-Sept. 23 &	12	24
	Oct. 6-Oct. 27 &	12	24
	Dec. 22-Jan. 15	12	24
South Zone			
	Sept. 22-Oct. 14 &	12	24
	Nov. 10-Dec. 1 &	12	24
	Dec. 22-Jan. 15	12	24
<u>North Carolina</u>			
12 noon to sunset	Sept. 1-Sept. 8	12	24
½ hour before sunrise			
to sunset	Sept. 9-Oct. 6 &	12	24
	Nov. 19-Nov. 24 &	12	24
	Dec. 17-Jan. 12	12	24
<u>Ohio</u>			
	Sept. 1-Oct. 14 &	15	30
	Nov. 10-Nov. 25	15	30
<u>Pennsylvania</u>			
12 noon to sunset	Sept. 1-Sept. 29 &	12	24
½ hour before sunrise			
to sunset	Oct. 20-Nov. 24 &	12	24
	Dec. 26-Dec. 29	12	24
<u>Rhode Island</u>			
12 noon to sunset	Sept. 22-Oct. 7	12	24
½ hour before sunrise			
to sunset	Oct. 20-Nov. 18 &	12	24
	Dec. 26-Jan. 10	12	24
<u>South Carolina</u>			
12 noon to sunset	Sept. 1-Sept. 3	12	24
½ hour before sunrise			
to sunset	Sept. 4-Oct. 6 &	12	24
	Nov. 17-Nov. 24 &	12	24
	Dec. 21-Jan. 15	12	24

	Season Dates	Bag	Limits Possession
<u>Tennessee</u>			
12 noon to sunset	Sept. 1 only	15	30
½ hour before sunrise to sunset	Sept. 2-Sept. 26 & Oct. 6-Oct. 21 & Dec. 15-Jan. 1	15 15 15	30 30 30
<u>Virginia</u>			
12 noon to sunset	Sept. 1-Sept. 29	12	24
½ hour before sunrise to sunset	Oct. 5-Oct. 27 & Dec. 26-Jan. 12	12 12	24 24
<u>West Virginia</u>			
12 noon to sunset	Sept. 1 only	12	24
½ hour before sunrise to sunset	Sept. 2-Oct. 6 & Oct. 22-Nov. 3 & Dec. 17-Jan. 5	12 12 12	24 24 24
<u>Wisconsin</u>	Sept. 1-Oct. 30	15	30
<u>CENTRAL MANAGEMENT UNIT</u>			
<u>Arkansas</u>	Sept. 1-Sept. 23 & Oct. 6-Oct. 21 & Dec. 15-Jan. 4	15 15 15	30 30 30
<u>Colorado</u> (1)	Sept. 1-Oct. 30	15	30
<u>Kansas</u> (1)	Sept. 1-Oct. 14 & Nov. 1-Nov. 16	15 15	30 30
<u>Minnesota</u>	Sept. 1-Oct. 30	15	30
<u>Missouri</u> (1)	Sept. 1-Nov. 9	12	24
<u>Montana</u>	Sept. 1-Oct. 30	15	30
<u>Nebraska</u> (1)	Sept. 1-Oct. 30	15	30
<u>New Mexico</u> (1)			
North Zone	Sept. 1-Oct. 30	15	30
South Zone	Sept. 1-Sept. 30 & Dec. 1-Dec. 30	15 15	30 30
<u>North Dakota</u>	Sept. 1-Oct. 28	15	30

	Season Dates	Bag	Limits Possession
<u>Oklahoma (1)</u>			
North Zone	Sept. 1-Oct. 30	15	30
Southwest Zone	Sept. 1-Oct. 30 &	12	24
	Dec. 26-Jan. 4	12	24
<u>South Dakota</u>	Sept. 1-Oct. 30	15	30
<u>Texas (2)</u>			
North Zone	Sept. 1-Oct. 30	15	30
Central Zone	Sept. 1-Oct. 30 &	12	24
	Dec. 26-Jan. 4	12	24
South Zone			
Special Area	Sept. 21-Nov. 11 &	12	24
	Dec. 26-Jan. 8	12	24
(Special Season)			
12 noon to sunset	Sept. 1-Sept. 2 &	12	24
	Sept. 8-Sept. 9	12	24
Remainder of the South Zone	Sept. 21-Nov. 11 &	12	24
	Dec. 26-Jan. 12	12	24
<u>Wyoming</u>	Sept. 1-Oct. 30	15	30
<u>WESTERN MANAGEMENT UNIT</u>			
<u>Arizona (3)</u>	Sept. 1-Sept. 15 &	10	20
	Nov. 23-Jan. 6	10	20
<u>California (4)</u>	Sept. 1-Sept. 15 &	10	20
	Nov. 10-Dec. 24	10	20
<u>Idaho</u>	Sept. 1-Sept. 30	10	20
<u>Nevada (4)</u>	Sept. 1-Sept. 30	10	20
<u>Oregon</u>	Sept. 1-Sept. 30	10	20
<u>Utah (4)</u>	Sept. 1-Sept. 30	10	20
<u>Washington</u>	Sept. 1-Sept. 15	10	20
<u>OTHER POPULATIONS</u>			
<u>Hawaii (5)</u>	Nov. 3-Nov. 25 &	10	10
	Dec. 1-Dec. 23 &	10	10
	Jan. 5-Jan. 21	10	10

(1) The daily bag limit is for mourning and white-winged doves in the aggregate.

(2) In Texas, the daily bag limit is either 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 60-day season or 12 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 70-day season. Possession limits are twice the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 12 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 4 may be mourning doves and 2 may be white-tipped doves. Possession limits are twice the daily bag limit.

(3) In Arizona, during September 1 through 15, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During November 23 through January 6, the daily bag limit is 10 mourning doves. The possession limit is twice the daily bag limit. See State regulations for restrictive shooting hours in certain areas.

(4) In Utah and the areas of California and Nevada open to white-winged dove hunting, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves in the aggregate.

(5) In Hawaii, the season is only open on the island of Hawaii. The daily bag and possession limits are 10 mourning doves, spotted doves and chestnut-bellied sandgrouse in the aggregate. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. Hunting is permitted only on weekends and State holidays.

(b) Band-tailed Pigeons

	Season Dates	Bag	Limits Possession
<u>Arizona</u>			
Units 12A, 12B, 13A, & 13B	Sept. 14-Oct. 7	5	10
Rest of State	Sept. 21-Oct. 7	5	10
<u>California</u>			
North Zone	Sept. 15-Sept. 23	2	4
South Zone	Dec. 15-Dec. 23	2	4
<u>Colorado</u>			
	Sept. 1-Sept. 30	5	10
<u>New Mexico</u> (1)			
North Zone	Sept. 1-Sept. 20	5	10
South Zone	Oct. 1-Oct. 20	5	10
<u>Oregon</u>			
	Sept. 15-Sept. 23	2	4
<u>Utah</u> (2)			
	Sept. 1-Sept. 30	5	10
<u>Washington</u>			
	Sept. 15-Sept. 23	2	4

(1) In New Mexico, each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

(2) In Utah, each band-tailed pigeon hunter must have either a band-tailed pigeon hunting permit or a special bird permit stamp issued by the respective State.

5. Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16

ATLANTIC FLYWAY

<u>Connecticut</u> (3)	Sept. 4-Nov. 10	Sept. 4-Nov. 10	Oct. 26-Nov. 24	Oct. 26-Nov. 24
<u>Delaware</u>	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 19-Dec. 8 & Dec. 20-Dec. 29	Nov. 19-Dec. 8 & Dec. 20-Dec. 29
<u>Florida</u>	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 15-Jan. 13	Nov. 1-Feb. 15
<u>Georgia</u>	Sept. 22-Nov. 1 & Nov. 17-Dec. 15	Sept. 22-Nov. 1 & Nov. 17-Dec. 15	Dec. 15-Jan. 13	Nov. 15-Feb. 28
<u>Maine</u>	Sept. 1-Nov. 9	Closed	Deferred	Sept. 1-Dec. 15
<u>Maryland</u>	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 2-Nov. 23 & Jan. 12-Jan. 19	Sept. 26-Nov. 23 & Dec. 10-Jan. 26
<u>Massachusetts</u> (4)	Sept. 1-Nov. 9	Closed	Deferred	Sept. 1-Dec. 15
<u>New Hampshire</u>	Closed	Closed	Oct. 6-Nov. 4	Sept. 15-Nov. 4
<u>New Jersey</u> (5)				
North Zone	Sept. 1-Nov. 8	Sept. 1-Nov. 8	Oct. 18-Nov. 10	Sept. 15-Dec. 29
South Zone	Sept. 1-Nov. 8	Sept. 1-Nov. 8	Nov. 10-Nov. 24 & Dec. 21-Dec. 29	Sept. 15-Dec. 29

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Common Snipe
<u>New York</u> (6)	Sept. 1-Nov. 9	Closed	Oct. 6-Nov. 4	Sept. 1-Nov. 9
<u>North Carolina</u>	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 14-Jan. 12	Nov. 14-Feb. 28
<u>Pennsylvania</u> (1)(7)	Sept. 1-Nov. 9	Closed	Oct. 13-Nov. 10	Oct. 13-Nov. 24
<u>Rhode Island</u> (8)	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 1-Nov. 30	Sept. 1-Nov. 9
<u>South Carolina</u>	Sept. 26-Oct. 1 & Oct. 24-Dec. 26	Sept. 26-Oct. 1 & Oct. 24-Dec. 26	Jan. 2-Jan. 31	Nov. 14-Feb. 28
<u>Vermont</u>	Closed	Closed	Deferred	Deferred
<u>Virginia</u>	Sept. 10-Nov. 17	Sept. 10-Nov. 17	Oct. 27-Nov. 10 & Dec. 22-Jan. 5	Oct. 4-Oct. 8 & Oct. 22-Jan. 31
<u>West Virginia</u>	Sept. 1-Nov. 9	Closed	Oct. 19-Nov. 17	Sept. 1-Dec. 15
<u>MISSISSIPPI FLYWAY</u>				
<u>Alabama</u> (9)	Nov. 23-Jan. 27	Nov. 23-Jan. 27	Dec. 18-Jan. 31	Nov. 14-Feb. 28
<u>Arkansas</u>	Sept. 15-Nov. 23	Closed	Nov. 10-Dec. 24	Nov. 1-Feb. 15
<u>Illinois</u> (10)	Sept. 8-Nov. 16	Closed	Oct. 20-Dec. 3	Sept. 8-Dec. 23
<u>Indiana</u> (11)	Sept. 1-Nov. 9	Closed	Oct. 6-Nov. 19	Sept. 1-Dec. 16
<u>Iowa</u> (12)	Sept. 1-Nov. 9	Closed	Oct. 6-Nov. 19	Sept. 1-Nov. 30
<u>Kentucky</u>	Sept. 1-Nov. 9	Closed	Oct. 20-Dec. 3	Sept. 19-Nov. 4 & Nov. 22-Jan. 20
<u>Louisiana</u> (13)	Sept. 15-Sept. 30	Sept. 15-Sept. 30	Dec. 18-Jan. 31	Deferred
<u>Michigan</u> (14)	Sept. 15-Nov. 14	Closed	Sept. 22-Nov. 5	Sept. 15-Nov. 14
<u>Minnesota</u>	Sept. 1-Nov. 4	Closed	Sept. 22-Nov. 5	Sept. 1-Nov. 4
<u>Mississippi</u>	Oct. 6-Dec. 14	Oct. 6-Dec. 14	Dec. 15-Jan. 28	Nov. 10-Feb. 24
<u>Missouri</u>	Sept. 1-Nov. 9	Closed	Oct. 15-Nov. 28	Sept. 1-Dec. 16
<u>Ohio</u>	Sept. 1-Nov. 9	Closed	Oct. 12-Nov. 25	Sept. 1-Nov. 25 & Dec. 8-Dec. 28
<u>Tennessee</u>	Deferred	Closed	Oct. 27-Dec. 10	Nov. 14-Feb. 28
<u>Wisconsin</u>	Deferred	Closed	Sept. 22-Nov. 5	Deferred

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Common Snipe
<u>CENTRAL FLYWAY</u>				
<u>Colorado</u>	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
<u>Kansas</u>	Sept. 1-Nov. 9	Closed	Oct. 13-Nov. 26	Sept. 1-Dec. 16
<u>Montana</u>	Closed	Closed	Closed	Sept. 1-Dec. 16
<u>Nebraska</u> (15)	Sept. 1-Nov. 9	Closed	Sept. 22-Nov. 5	Sept. 1-Dec. 16
<u>New Mexico</u> (15)	Sept. 15-Nov. 23	Closed	Closed	Oct. 6-Jan. 20
<u>North Dakota</u>	Closed	Closed	Sept. 22-Nov. 4	Sept. 15-Nov. 25
<u>Oklahoma</u>	Sept. 1-Nov. 9	Closed	Nov. 1-Dec. 15	Oct. 1-Jan. 15
<u>South Dakota</u> (16)	Closed	Closed	Closed	Sept. 1-Oct. 31
<u>Texas</u>	Sept. 15-Sept. 30 & Nov. 3-Dec. 26	Sept. 15-Sept. 30 & Nov. 3-Dec. 26	Dec. 18-Jan. 31	Nov. 3-Feb. 17
<u>Wyoming</u>	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
<u>PACIFIC FLYWAY</u>				
<u>Arizona</u>	Closed	Closed	Closed	Deferred
<u>California</u>	Closed	Closed	Closed	Oct. 20-Feb. 3
<u>Colorado</u>	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
<u>Idaho:</u>				
Area 1	Closed	Closed	Closed	Deferred
Area 2	Closed	Closed	Closed	Deferred
<u>Montana</u>	Closed	Closed	Closed	Sept. 1-Dec. 16
<u>Nevada</u>	Closed	Closed	Closed	Deferred
<u>New Mexico</u> (15)	Sept. 15-Nov. 23	Closed	Closed	Oct. 6-Jan. 20
<u>Oregon</u>	Closed	Closed	Closed	Deferred
<u>Utah</u>	Closed	Closed	Closed	Oct. 6-Jan. 19
<u>Washington</u>	Closed	Closed	Closed	Deferred
<u>Wyoming</u>	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16

- (1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.
- (2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In Connecticut, Delaware, Maryland, and New Jersey, the limits for clapper and king rails are 10 daily and 20 in possession.
- (3) In Connecticut, the daily bag and possession limits may not contain more than 1 king rail. The common snipe daily bag and possession limits are 3 and 6, respectively.
- (4) In Massachusetts, the sora rail limits are 5 daily and 5 in possession; the Virginia rail limits are 10 daily and 10 in possession.
- (5) In New Jersey, the season for king rails is closed by State regulation.
- (6) In New York, the rail daily bag and possession limits are 8 and 16, respectively. Seasons for sora and Virginia rails and common snipe are closed on Long Island.
- (7) In Pennsylvania, the daily bag and possession limits for rails are 3 and 6, respectively.
- (8) In Rhode Island, the sora and Virginia rails limits are 1 daily and 2 in possession, singly or in the aggregate; the clapper and king rail limits are 1 daily and 2 in possession, singly or in the aggregate; the common snipe limits are 5 daily and 10 in possession.
- (9) In Alabama, the rail limits are 15 daily and 15 in possession, singly or in the aggregate.
- (10) In Illinois, shooting hours are from sunrise to sunset.
- (11) In Indiana, the sora rail limits are 25 daily and 25 in possession. The season on Virginia rails is closed.
- (12) In Iowa, the limits for sora and Virginia rails are 12 daily and 24 in possession.
- (13) In Louisiana, additional days occurring after September 30 will be published with the late season selections.
- (14) In Michigan, the aggregate limits for sora and Virginia rails are 8 daily and 16 in possession.
- (15) In Nebraska and New Mexico, the rail limits are 10 daily and 20 in possession.
- (16) In South Dakota, the snipe limits are 5 daily and 15 in possession.

6. Section 20.105 is amended by revising paragraphs (a) through (f) to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-seasons regulations for further information.

(a) Common Moorhens and Purple Gallinules

	Season Dates	Bag	Limits Possession
<u>ATLANTIC FLYWAY</u>			
<u>Delaware</u>	Sept. 1-Nov. 9	15	30
<u>Florida</u> (1)	Sept. 1-Nov.9	15	30
<u>Georgia</u>	Deferred	--	—
<u>New Jersey</u>	Sept. 1-Nov. 8	10	20
<u>New York</u>			
Long Island	Closed	--	—
Remainder of State	Sept. 1-Nov. 9	8	16
<u>North Carolina</u>	Sept. 1-Nov. 9	15	30
<u>Pennsylvania</u>	Sept. 1-Nov. 9	3	6
<u>South Carolina</u>	Sept. 26-Oct. 1 & Oct. 24-Dec. 26	15 15	30 30
<u>Virginia</u>	Deferred	--	—
<u>West Virginia</u>	Deferred	--	—
<u>MISSISSIPPI FLYWAY</u>			
<u>Alabama</u>	Nov. 23-Jan. 27	15	15
<u>Arkansas</u>	Sept. 1-Nov. 9	15	30
<u>Kentucky</u>	Sept. 1-Nov. 9	15	30
<u>Louisiana</u> (2)	Sept. 15-Sept. 30	15	30
<u>Michigan</u>	Deferred	--	--
<u>Minnesota</u>	Deferred	--	--
<u>Mississippi</u>	Oct. 6-Dec. 14	15	30
<u>Ohio</u>	Sept. 1-Nov. 9	15	30
<u>Tennessee</u>	Deferred	--	--
<u>Wisconsin</u>	Deferred	--	—

	Season Dates	Bag	Limits Possession
<u>CENTRAL FLYWAY</u>			
<u>New Mexico</u>			
Zone 1	Oct. 6-Dec. 14	1	2
Zone 2	Oct. 6-Dec. 14	1	2
<u>Oklahoma</u>	Sept. 1-Nov. 9	15	30
<u>Texas</u>	Sept. 15-Sept. 30 & Nov. 3-Dec. 26	15 15	30 30
<u>Wyoming</u>	Deferred	--	--
<u>PACIFIC FLYWAY</u>			
All States	Deferred	--	--

(1) The season applies to common moorhens only.

(2) Additional days occurring after September 30 will be published with the late season selections.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 7 scoter, eider, and oldsquaw ducks, singly or in the aggregate, of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits	
		Bag	Possession
<u>Connecticut</u> (1)	Sept. 19-Jan. 19	5	10
<u>Delaware</u>	Sept. 25-Jan. 26	7	14
<u>Georgia</u>	Deferred	--	--
<u>Maine</u>	Deferred	--	--
<u>Maryland</u>	Deferred	--	--
<u>Massachusetts</u>	Deferred	--	--
<u>New Hampshire</u> (2)	Oct. 1-Jan. 15	7	14
<u>New Jersey</u>	Sept. 25-Jan. 26	7	14

	Season Dates	Limits	
		Bag	Possession
<u>New York</u>	Oct. 13-Jan. 27	7	14
<u>North Carolina</u>	Deferred	--	--
<u>Rhode Island</u>	Oct. 6-Jan. 20	7	14
<u>South Carolina</u>	Deferred	--	--
<u>Virginia</u>	Deferred	--	--

NOTE: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(1) In Connecticut, the daily bag limit may include no more than 4 scoters or 4 oldsquaws.

(2) In New Hampshire, the daily bag limit may include no more than 4 scoters, 4 eiders, or 4 oldsquaws.

(c) Early (September) Duck Seasons.

Note: Unless otherwise specified, the seasons listed below are for teal only.

	Season Dates	Bag	Limits Possession
<u>ATLANTIC FLYWAY</u>			
<u>Delaware</u> (1)(2)	Sept. 20-Sept. 29	4	8
<u>Florida</u> (3)	Sept. 22-Sept. 26	4	8
<u>Georgia</u>	Sept. 15-Sept. 23	4	8
<u>Maryland</u> (1)	Sept. 20-Sept. 29	4	8
<u>North Carolina</u> (1)	Sept. 13-Sept. 22	4	8
<u>South Carolina</u> (4)	Sept. 21-Sept. 29	4	8
<u>Virginia</u> (1)	Sept. 17-Sept. 26	4	8
<u>MISSISSIPPI FLYWAY</u>			
<u>Alabama</u>	Sept. 8-Sept. 23	4	8
<u>Arkansas</u> (4)	Sept. 15-Sept. 30	4	8

	Season Dates	Limits	
		Bag	Possession
<u>Illinois</u> (4)	Sept. 8-Sept. 23	4	8
<u>Indiana</u> (4)	Sept. 1-Sept. 16	4	8
<u>Iowa</u> (5)			
North Zone	Sept. 22-Sept. 26	--	--
South Zone	Sept. 22-Sept. 26	--	--
<u>Kentucky</u> (3)	Sept. 19-Sept. 23	4	8
<u>Louisiana</u>	Sept. 15-Sept. 30	4	8
<u>Mississippi</u>	Sept. 15-Sept. 30	4	8
<u>Missouri</u> (4)	Sept. 8-Sept. 23	4	8
<u>Ohio</u> (4)	Sept. 1-Sept. 16	4	8
<u>Tennessee</u> (3)	Sept. 8-Sept. 12	4	8
<u>CENTRAL FLYWAY</u>			
<u>Colorado</u> (1)	Sept. 8-Sept. 16	4	8
<u>Kansas</u>			
Low Plains	Sept. 8-Sept. 23	4	8
High Plains	Sept. 15-Sept. 22	4	8
<u>Nebraska</u> (1)			
Low Plains	Sept. 8-Sept. 23	4	8
High Plains	Sept. 8-Sept. 16	4	8
<u>New Mexico</u>	Sept. 15-Sept. 23	4	8
<u>Oklahoma</u>	Sept. 15-Sept. 30	4	8
<u>Texas</u>			
High Plains	Sept. 15-Sept. 23	4	8
Rest of State	Sept. 15-Sept. 30	4	8

(1) Area restrictions. See State regulations.

(2) In Delaware, the shooting hours are from ½ hour before sunrise to 10:00 a.m.

(3) In Florida, Kentucky, and Tennessee, the daily bag limit is 4 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. The possession limit is twice the daily bag limit.

(4) Shooting hours are from sunrise to sunset.

(5) In Iowa, the September season is part of the regular season, and limits will conform to those set for the regular season.

(d) Special Early Canada Goose Seasons.

	Season Dates	Bag	Limits Possession
<u>ATLANTIC FLYWAY</u>			
<u>Connecticut</u>			
North Zone	Sept. 4-Sept. 29	15	30
South Zone	Sept. 15-Sept. 29	15	30
<u>Delaware</u> (1)	Sept. 1-Sept. 15	15	30
<u>Florida</u> (2)	Sept. 1-Sept. 26	5	10
<u>Georgia</u>	Sept. 1-Sept. 30	5	10
<u>Maine</u>			
Northern Zone	Sept. 4-Sept. 25	6	12
Southern Zone	Sept. 4-Sept. 25	8	16
<u>Maryland</u> (1)(3)			
Eastern Unit	Sept. 1-Sept. 15	8	16
Western Unit	Sept. 1-Sept. 25	8	16
<u>Massachusetts</u> (4)			
Central Zone	Sept. 4-Sept. 25	5	10
Coastal Zone	Sept. 4-Sept. 25	5	10
Western Zone	Sept. 4-Sept. 25	5	10
<u>New Hampshire</u>	Sept. 4-Sept. 25	5	10
<u>New Jersey</u> (1)(3)(5)	Sept. 1-Sept. 29	15	30
<u>New York</u>			
Lake Champlain Zone	Sept. 4-Sept. 25	5	10
Northeastern Zone	Sept. 1-Sept. 25	8	16
Western Zone	Sept. 1-Sept. 25	8	16
Southeastern Zone	Sept. 1-Sept. 25	8	16
Long Island Zone	Sept. 4-Sept. 30	8	16
<u>North Carolina</u> (6)(7)	Sept. 1-Sept. 30	8	16
<u>Pennsylvania</u>			
Pymatuning Zone (8)	Sept. 1-Sept. 25	8	16
Rest of State (1)(9)	Sept. 1-Sept. 25	8	16
<u>Rhode Island</u>	Sept. 1-Sept. 30	15	30
<u>South Carolina</u>			
Early-Season Hunt Unit	Sept. 1-Sept. 30	15	30

	Season Dates	Bag	Limits Possession
<u>Vermont</u>			
Lake Champlain Zone (10)	Sept. 4-Sept. 25	5	10
Interior Vermont Zone	Sept. 4-Sept. 25	5	10
Connecticut River Zone (11)	Sept. 4-Sept. 25	5	10
<u>Virginia</u> (12)	Sept. 1-Sept. 25	5	10
<u>West Virginia</u>	Sept. 1-Sept. 15	5	10
<u>MISSISSIPPI FLYWAY</u>			
<u>Alabama</u>	Sept. 1-Sept. 15	5	10
<u>Arkansas</u>	Sept. 1-Sept. 15	5	10
<u>Illinois</u>			
Northeast Zone	Sept. 1-Sept. 15	5	10
North Zone	Sept. 1-Sept. 15	2	4
Central Zone	Sept. 1-Sept. 15	2	4
South Zone	Sept. 1-Sept. 15	2	4
<u>Indiana</u>	Sept. 1-Sept. 15	5	10
<u>Iowa</u>			
South Goose Zone			
Des Moines Goose Zone	Sept. 1-Sept. 15	5	10
Cedar Rapids/Iowa City Goose Zone	Sept. 1-Sept. 15	5	10
Remainder of South Zone	Sept. 8-Sept. 9	2	4
North Goose Zone	Sept. 8-Sept. 9	2	4
<u>Kentucky</u> (13)	Sept. 1-Sept. 9	2	4
<u>Michigan</u>			
Upper Peninsula	Sept. 1-Sept. 10	3	6
Lower Peninsula:			
Huron, Saginaw, and Tuscola Counties	Sept. 1-Sept. 10	3	6
Remainder	Sept. 1-Sept. 15	3	6
<u>Minnesota</u>			
Twin Cities Metro Zone	Sept. 1-Sept. 22	5	10
Southeast Goose Zone	Sept. 1-Sept. 22	2	4
Five Goose Zone	Sept. 1-Sept. 22	5	10
Northwest Goose Zone	Sept. 1-Sept. 22	5	10
<u>Mississippi</u> (14)(15)	Sept. 1-Sept. 15	5	10
<u>Ohio</u> (13)	Sept. 1-Sept. 15	3	6

	Season Dates	Limits	
		Bag	Possession
<u>Tennessee</u>	Sept. 1-Sept. 15	5	10
<u>Wisconsin</u>	Sept. 1-Sept. 15	5	10
<u>CENTRAL FLYWAY</u>			
<u>Nebraska</u> (13)			
Sept. Canada Goose Unit	Sept. 8-Sept. 16	5	10
<u>North Dakota</u>	Sept. 1-Sept. 15	5	10
<u>Oklahoma</u>	Sept. 1-Sept. 10	3	6
<u>South Dakota</u> (13)	Sept. 8-Sept. 28	5	10
<u>PACIFIC FLYWAY</u>			
<u>Colorado:</u>	Sept. 1-Sept. 9	3	6
<u>Oregon:</u>			
Northwest Zone	Sept. 8-Sept. 16	5	10
Southwest Zone (16)	Sept. 8-Sept. 13	5	10
East Zone (16)	Sept. 8-Sept. 13	5	10
<u>Washington:</u>			
Mgmt. Area 2B	Sept. 1-Sept. 15	5	10
Mgmt. Areas 1 & 3	Sept. 8-Sept. 13	5	10
Mgmt. Area 4 & 5	Sept. 8-Sept. 9	3	6
Mgmt. Area 2A	Sept. 8-Sept. 13	3	6
<u>Wyoming</u>	Sept. 1-Sept. 8	2	4

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(2) In Florida, the September Canada goose season is only open in the Florida waters of Lake Seminole in Jackson County that are south of State Route 2, north of the Jim Woodruff Dam, and east of State Route 2.

(3) The use of shotguns capable of holding more than 3 shotshells is allowed.

(4) State permit required.

(5) The use of electronic calls is allowed.

(6) In North Carolina, in the area of Dare County that includes Roanoke Island, 1,000 yards around Roanoke Island, and 1,000 yards both north and south of Highway 64 causeway between Roanoke Island and Bodie Island, the daily bag and possession limits are 2 and 4, respectively.

(7) In North Carolina, shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.

(8) In Pennsylvania, in the Pymatuning Zone, geese may only be taken on Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir, excluding the area east of SR 3011 (Hartstown Road). The remainder of the Zone is closed.

- (9) In Pennsylvania, in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike, the daily bag limit is 1 goose with a possession limit of 2 geese. On State Game Lands No. 46 (Middle Creek Wildlife Mgmt Area), the season is closed.
- (10) In Vermont, in Addison County north of Route 125, the daily bag and possession limit is 2 and 4, respectively.
- (11) In Vermont, the Connecticut River Zone set by New Hampshire, is the same as the New Hampshire Inland Zone.
- (12) In Virginia, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 15, and one-half hour before sunrise to sunset from September 16 to September 25.
- (13) See State regulations for additional information and restrictions.
- (14) In Mississippi, the season is closed on Roebuck Lake in Leflore County.
- (15) In Mississippi, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 14, and one-half hour before sunrise to sunset on September 15.
- (16) In Oregon, the season is closed in the Southcoast Zone and the Klamath County Zone.

(e) Regular Goose Seasons.

Note: Bag and possession limits will conform to those set for the regular season.

Season Dates	
<u>MISSISSIPPI FLYWAY</u>	
<u>Michigan</u> (1)	
Canada:	
MVP Zone	
Upper Peninsula	Sept. 18-Nov. 1
Lower Peninsula	Deferred
SJBP Zone	Deferred
White-fronted and Brant	Deferred
Light geese	Deferred
<u>Wisconsin</u>	
Horicon Zone	Sept. 16-Sept. 30
Collins Zone	Sept. 16-Sept. 30
Exterior Zone	Sept. 16-Sept. 30

- (1) In Michigan, season dates for the Muskegon Wastewater, Saginaw County, Allegan County, and Tuscola/Huron Goose Management Units in the South Zone will be established in the late-season regulatory process.
- (f) Youth Waterfowl Hunting Days
- The following seasons are open only to youth hunters. Youth hunters must be accompanied into the field by an adult at least 18 years of age. This adult cannot duck hunt but may participate in other open seasons.

Definitions

Youth Hunters: Includes youths 15 years of age or younger.

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Note: Bag and possession limits will conform to those set for the regular season.

Season Dates

ATLANTIC FLYWAY

<u>Connecticut</u>	Deferred
<u>Delaware</u> Ducks, geese, and coots	Oct. 20
<u>Florida</u>	Deferred
<u>Georgia</u> Ducks, geese, mergansers, coots, moorhens, and gallinules	Nov. 10 & 11
<u>Maine</u> Ducks, mergansers, and coots	Sept. 22
<u>Maryland</u> (1) Ducks, mergansers, coots, and Canada geese	Deferred
<u>Massachusetts</u>	Deferred
<u>New Hampshire</u> Ducks, geese, mergansers, and coots	Sept. 29 & 30
<u>New Jersey</u> Ducks, geese, mergansers, coots, moorhens, and gallinules	
North Zone	Oct. 6
South Zone	Oct. 13
Coastal Zone	Oct. 27

Season Dates

New York

Ducks, mergansers, coots, brant, and Canada geese (2)

Long Island Zone

Nov. 10 & 11

Lake Champlain Zone

Sept. 29 & 30

Northeastern Zone

Sept. 22 & 23

Southeastern Zone

Sept. 22 & 23

Western Zone

Oct. 13 & 14

North Carolina

Deferred

Pennsylvania

Ducks, mergansers, Canada geese, coots, and moorhens

Sept. 22

Rhode Island

Ducks, mergansers and coots

Oct. 27 & 28

South Carolina

Deferred

Vermont

Ducks, geese, mergansers and coots

Sept. 29 & 30

Virginia

Deferred

West Virginia (3)

Ducks, geese, mergansers, coots, moorhens, and gallinules

Sept. 22

MISSISSIPPI FLYWAYAlabama

Ducks, mergansers, coots, geese, moorhens, and gallinules

Feb. 9 & 10

Arkansas

Deferred

Illinois

Ducks, geese, mergansers, and coots

North Zone

Oct. 13 & 14

Central Zone

Oct. 20 & 21

South Zone

Nov. 10 & 11

Indiana

Deferred

Iowa

Ducks, geese, mergansers, and coots

North Zone

Oct. 6 & 7

South Zone

Oct. 6 & 7

Kentucky

Ducks, geese, mergansers, coots, moorhens, and gallinules

East Zone

Nov. 3 & 4

West Zone

Feb. 2 & 3

	Season Dates
<u>Louisiana</u>	Deferred
<u>Michigan</u> Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 15 & 16
<u>Minnesota</u> (4) Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 15
<u>Mississippi</u>	Deferred
<u>Missouri</u>	Deferred
<u>Ohio</u>	Deferred
<u>Tennessee</u>	Deferred
<u>Wisconsin</u> Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 15 & 16
<u>CENTRAL FLYWAY</u>	
<u>Colorado</u> Ducks, dark geese, mergansers, and coots Mountain/Foothills Zone Eastern Plains Zone	Sept. 22 & 23 Sept. 29 & 30
<u>Kansas</u> (5)	Deferred
<u>Montana</u> Ducks, geese, mergansers, and coots	Sept. 22 & 23
<u>Nebraska</u> (6) Ducks, geese, mergansers, and coots	Sept. 29 & 30
<u>New Mexico</u> Ducks, geese, mergansers, coots, and gallinules North Zone South Zone	Sept. 29 & 30 Oct. 13 & 14
<u>North Dakota</u> (7) Ducks, geese, mergansers, and coots	Sept. 15 & 16
<u>Oklahoma</u>	Deferred
<u>South Dakota</u> (7) Ducks, Canada geese, mergansers, and coots	Sept. 22 & 23
<u>Texas</u>	Deferred

Season Dates	
<u>Wyoming</u>	
Ducks, geese, mergansers, and coots	
Zone 1	Sept. 29
Zone 2	Sept. 22
<u>PACIFIC FLYWAY</u>	
<u>Arizona</u>	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
North Zone	Sept. 29 & 30
South Zone	Feb. 2 & 3
<u>California</u>	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
Northeastern Zone	Deferred
Colorado River Zone	Deferred
Southern Zone	Deferred
Southern San Joaquin Valley Zone	Deferred
Balance-of-State Zone	Deferred
<u>Colorado</u>	
Ducks, geese, mergansers, and coots	Oct. 20 & 21
<u>Idaho</u>	
Ducks, Canada geese, mergansers, and coots	Sept. 29 & 30
<u>Montana</u>	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 22 & 23
<u>Nevada</u>	
	Deferred
<u>New Mexico</u>	
Ducks, mergansers, and coots	Oct. 6-Oct. 7
<u>Oregon (8)</u>	
Ducks, Canada geese, mergansers, coots, moorhens, and gallinules	Sept. 22 & 23
<u>Utah</u>	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 29
<u>Washington</u>	
Ducks, Canada geese, mergansers, and coots	Sept. 22 & 23
<u>Wyoming</u>	
Ducks, dark geese, mergansers, and coots	Sept. 15

(1) In Maryland, the accompanying adult must be at least 21 years of age and possess a valid Maryland hunting license (or be exempt from the license requirement). This accompanying adult may not shoot or possess a firearm.

- (2) In New York, the daily bag limit for Canada geese is 2.
- (3) In West Virginia, the accompanying adult must be at least 21 years of age.
- (4) In Minnesota, the Canada goose limit is 5, except that in the Twin Cities, Southeast, and Northwest Goose Zones, Swan Lake Area, and Carlos Avery Wildlife Management Area the limit is 1.
- (5) In Kansas, the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.
- (6) In Nebraska, see State regulations for additional information on the daily bag limit.
- (7) In North Dakota and South Dakota, the limit for Canada geese is 3, except in areas where the Special Early Canada goose season is open. In those areas, the limit is the same as for that special season.
- (8) In Oregon, the Canada goose season is closed for the youth hunt in the Northwest Special Permit Goose Zone and the Northwest General Zone.

7. Section 20.106 is revised to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Season Dates	Bag	Limits Possession
<u>CENTRAL FLYWAY</u>			
<u>Colorado</u> (1)	Oct. 6-Dec. 2	3	6
<u>Kansas</u> (2)(3)	Nov. 7-Jan. 3	3	6
<u>Montana</u>			
Regular Season Area (1)	Sept. 22-Nov. 18	3	6
Special Season Area (5)	Sept. 8-Sept. 16		1 per season
<u>New Mexico</u>			
Regular Season Area (1)	Oct. 31-Jan. 31	3	6
Middle Rio Grande			
Valley Area (5)	Oct. 27-Oct. 28 &	2	4
	Nov. 17-Nov. 18 &	2	4
	Dec. 8-Dec. 9 &	2	4
	Jan. 12-Jan. 13	2	4

	Season Dates	Bag	Limits Possession
<u>New Mexico</u> (cont.)			
Southwest Area (5)	Oct. 27-Nov. 4 & Jan. 5-Jan. 6	3 3	6 6
Estancia Valley (5)	Oct. 27-Nov. 4	3	6
<u>North Dakota</u> (2)			
Area 1	Sept. 15-Nov. 11	3	6
Area 2	Sept. 15-Oct. 21	2	4
<u>Oklahoma</u> (1)	Deferred	--	--
<u>South Dakota</u> (1)	Sept. 22-Nov. 18	3	6
<u>Texas</u> (1)	Deferred	--	--
<u>Wyoming</u>			
Regular Season Area (1)	Sept. 15-Nov. 11	3	6
Riverton-Boysen Unit (Area 4) (5)	Sept. 15-Oct. 5		1 per season
Big Horn and Park Counties (Area 6) (5)	Sept. 15-Sept. 30		1 per season
<u>PACIFIC FLYWAY</u>			
<u>Arizona</u> (5)	Nov. 2-Nov. 4 & Nov. 6-Nov. 8 & Nov. 10-Nov. 12 & Nov. 14-Nov. 16 & Nov. 23-Nov. 25		2 per season 2 per season 2 per season 2 per season 2 per season
<u>Idaho</u> (5)	Sept. 1-Sept. 15	2	9 per season
<u>Montana</u>			
Special Season Area (5)	Sept. 8-Sept. 16		1 per season
<u>Utah</u> (5)			
Rich County	Sept. 1-Sept. 9		1 per season
Cache County	Sept. 1-Sept. 9		1 per season
Eastern Box Elder County	Sept. 1-Sept. 9		1 per season
Uintah County	Sept. 22-Sept. 30		1 per season
<u>Wyoming</u> (5)			
Bear River Area (Area 1)	Sept. 1-Sept. 8		1 per season
Salt River Area (Area 2)	Sept. 1-Sept. 8		1 per season
Eden-Farson Area (Area 3)	Sept. 1-Sept. 8		1 per season

- (1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his or her possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.
- (2) In Kansas and North Dakota, each hunter participating in a regular sandhill crane hunting season must obtain and carry in his or her possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit issued and validated by the State. The permit must be displayed to any authorized law enforcement official upon request.
- (3) In Kansas, shooting hours are from one-half hour after sunrise until 2:00 p.m. through November 30, and from sunrise until 2:00 p.m. December 1 through January 3.
- (4) In Kansas, each person desiring to hunt sandhill cranes in Kansas is required to pass an annual, on-line sandhill crane identification examination.
- (5) Hunting is by State permit only.

8. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 23, 2007, Federal Register (72 FR 40197). For those extended seasons for ducks, mergansers, and coots, area descriptions were published in the September 22, 2006, Federal Register (71 FR 55654) and will be published again in a September 2007 Federal Register.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Daily bag limit 3 migratory birds, singly or in the aggregate.

Possession limit 6 migratory birds, singly or in the aggregate.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons; additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult late-season regulations for further information.

Extended Falconry Dates

ATLANTIC FLYWAYDelaware

Mourning doves	Oct. 1-Oct. 15 & Jan. 17-Feb. 7
Rail	Nov. 10-Dec. 15
Woodcock	Oct. 1-Oct. 6 & Feb. 1-Mar. 10
Snipe	Feb. 1-Mar. 10

Florida

Mourning and white-winged doves	Oct. 30-Nov. 9 & Nov. 26-Dec. 7 & Jan. 7-Jan. 20
Rails	Nov. 10-Dec. 16
Woodcock	Nov. 24-Dec. 14 & Jan. 14-Mar. 9
Common moorhens	Nov. 10-Dec. 14

Georgia

Moorhens, gallinules, and sea ducks	Nov. 26-Dec. 7 & Jan. 28-Feb. 1
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Maryland

Mourning doves	Oct. 14-Nov. 9 & Dec. 9-Dec. 14 & Jan. 4- Jan. 7
Rails	Nov. 10-Dec. 16
Woodcock	Oct. 1-Oct. 31 & Jan. 25-Mar. 10

Pennsylvania

Mourning doves	Oct. 1-Oct. 19 & Nov. 26-Dec. 14
Rails	Nov. 10-Dec. 15
Woodcock	Sept. 1-Oct. 12 & Nov. 12-Dec. 15

Extended Falconry Dates

Pennsylvania (cont.)

Snipe	Sept. 1-Oct. 12 & Nov. 26-Dec. 17
Moorhens and gallinules	Nov. 10-Dec. 15

Virginia

Mourning doves	Sept. 30-Oct. 4 & Oct. 28-Nov. 3 & Dec. 1-Dec. 25
Woodcock	Oct. 20-Oct. 26 & Nov. 11-Dec. 21 & Jan. 6-Feb. 3
Rails	Nov. 18-Dec. 25

MISSISSIPPI FLYWAYIllinois

Mourning doves	Oct. 22-Nov. 2 & Nov. 12-Dec. 16
Rails	Sept. 1-Sept. 7 & Nov. 17-Dec. 16
Woodcock	Sept. 1-Oct. 19 & Dec. 4-Dec. 16

Indiana

Mourning doves	Oct. 14-Nov. 8 & Jan. 1-Jan. 21
Woodcock	Sept. 22-Oct. 5 & Nov. 20-Jan. 6
Ducks, mergansers, and coots (1) North Zone	Sept. 27-Sept. 30

Louisiana

Mourning doves	Sept. 17-Oct. 9
Woodcock	Oct. 28-Dec. 17 & Feb. 1-Feb. 11

Extended Falconry Dates

Minnesota

Woodcock	Sept. 1-Sept. 21 & Nov. 6-Dec. 16
Rails and snipe	Nov. 5-Dec. 16

Missouri

Mourning and white-winged doves	Nov. 10-Dec. 16
Ducks, mergansers, and coots	Sept. 8-Sept. 23

Ohio

Ducks	Sept. 1-Sept. 16
Canada geese	Sept. 1-Sept. 15

Tennessee

Mourning doves	Sept. 27-Oct. 12 & Oct. 29-Nov. 28
Ducks (1)	Sept. 13-Oct. 22

Wisconsin

Rails, snipe, moorhens, and gallinules (1)	Sept. 1-Sept. 21
Woodcock	Sept. 1-Sept. 21
Ducks, mergansers, and coots	Sept. 15-Sept. 16

CENTRAL FLYWAYMontana (2)

Ducks, mergansers, and coots (1)	Sept. 21-Sept. 28
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Nebraska

Ducks, mergansers, and coots	
High Plains	Sept. 8-Sept. 16 & Sept. 29-Sept. 30
Low Plains	Sept. 1-Sept. 23

Extended Falconry Dates

New Mexico

Doves	
North Zone	Oct. 31-Nov. 12 & Nov. 27-Dec. 30
South Zone	Oct. 1-Nov. 12 & Nov. 27-Nov. 30
Band-tailed pigeons	
North Zone	Sept. 21-Dec. 16
South Zone	Oct. 21-Jan. 15
Ducks and coots	Sept. 15-Sept. 23
Sandhill cranes	
Regular Season Area	Oct. 17-Oct. 30
Estancia Valley Area	Oct. 27-Dec. 30
Common moorhens	Dec. 15-Jan. 20
Sora and Virginia rails	Nov. 24-Dec. 30

North Dakota

Ducks, mergansers, and coots	Sept. 3-Sept. 7 & Sept. 10-Sept. 14
Snipe	Sept. 1-Sept. 14

South Dakota

Ducks, mergansers, and coots (1)	
High Plains	Sept. 4-Sept. 11
Low Plains	
North Zone	Sept. 4-Sept. 21 & Sept. 24-Sept. 28
Middle Zone	Sept. 4-Sept. 21 & Sept. 24-Sept. 28
South Zone	Sept. 4-Sept. 21 & Sept. 24-Sept. 30

Texas

Doves	Nov. 19-Dec. 25
Rails and gallinules	Dec. 27-Feb. 1
Woodcock	Nov. 24-Dec. 17

Extended Falconry Dates

Wyoming

Rails	Nov. 10-Dec. 16
Ducks, mergansers, and coots (1)	
Zone 1	Sept. 26-Oct. 5
Zone 2	Sept. 19-Sept. 28

PACIFIC FLYWAY

Arizona

Doves	Sept. 17-Nov. 2
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Idaho

Mourning doves	Nov. 1-Jan. 16
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New Mexico

Doves	
North Zone	Oct. 31-Nov. 12 & Nov. 27-Dec. 30
South Zone	Oct. 1-Nov. 12 & Nov. 27-Nov. 30
Band-tailed pigeons	
North Zone	Sept. 21-Dec. 16
South Zone	Oct. 21-Jan. 15

Oregon (3)

Mourning doves	Oct. 1-Dec. 16
Band-tailed pigeons	Sept. 1-Sept. 14 & Sept. 24-Dec. 16

Utah

Doves and band-tailed pigeons	Oct. 1-Dec. 16
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Washington

Mourning doves	Oct. 1-Dec. 31
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Wyoming

Rails	Nov. 10-Dec. 16
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Extended Falconry Dates

Wyoming (cont.)

Ducks, mergansers,
and coots (1)

Sept. 15

- (1) Additional days occurring after September 30 will be published with the late-season selections.
- (2) In Montana, the bag limit is 2 and the possession limit is 6.
- (3) In Oregon, no more than 1 pigeon daily in bag or possession.

[FR Doc. 07-4255 Filed 8-29-07; 8:45 am]

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- Bering Sea and Aleutian Islands groundfish, crab, salmon, and scallop; correction; comments due by 9-4-07; published 8-2-07 [FR E7-15045]

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- Video programming delivery; market competition; comments due by 9-4-07; published 7-18-07 [FR E7-13827]

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- Small Business Rerepresentation; comments due by 9-4-07; published 7-5-07 [FR 07-03279]

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Centex Aerospace, Inc.; Cirrus Design Corp. Model SR22 airplane; comments due by 9-4-07; published 8-2-07 [FR E7-14933]

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TREASURY DEPARTMENT Internal Revenue Service

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Domestic production activities; attributable income deduction; comments due by 9-5-07; published 6-7-07 [FR E7-10821]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

H.R. 2863/P.L. 110-75

To authorize the Coquille Indian Tribe of the State of Oregon to convey land and interests in land owned by the Tribe. (Aug. 13, 2007; 121 Stat. 724)

H.R. 2952/P.L. 110-76

To authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in lands owned by the Tribe. (Aug. 13, 2007; 121 Stat. 725)

H.R. 3006/P.L. 110-77

To improve the use of a grant of a parcel of land to the State of Idaho for use as an agricultural college, and for other purposes. (Aug. 13, 2007; 121 Stat. 726)

S. 375/P.L. 110-78

To waive application of the Indian Self-Determination and

Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes. (Aug. 13, 2007; 121 Stat. 727)

S. 975/P.L. 110-79

Granting the consent and approval of the Congress to an interstate forest fire protection compact. (Aug. 13, 2007; 121 Stat. 730)

S. 1716/P.L. 110-80

To amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers. (Aug. 13, 2007; 121 Stat. 734)

Last List August 13, 2007

CORRECTION

In the last **List of Public Laws** printed in the *Federal Register* on August 13, 2007, H.R. 2025, Public Law 110-65, and H.R. 2078, Public Law 110-67, were printed incorrectly. They should read as follows:

H.R. 2025/P.L. 110-65

To designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the "Willye B. White Post Office Building". (Aug. 9, 2007; 121 Stat. 568)

H.R. 2078/P.L. 110-67

To designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the "Staff Sergeant Omer T. 'O.T.' Hawkins Post Office". (Aug. 9, 2007; 121 Stat. 570)

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