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Washington, DC 20002

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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.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3565

RIN 0575–AC62

Annual Guarantee Fee Due Date

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service, an Agency under USDA Rural Development, is amending its regulations to change the due date of the annual guarantee fee for the Section 538 Guarantee Rural Rental Housing loans. The annual fee is a non-refundable amount that the lender must pay each year that the loan guarantee remains in effect. Currently, the Finance Office in St. Louis calculates annual fees manually since the borrower submissions of December 31 year-end financial information are not loaded into their automated systems by January 1, when annual fees are due. The Finance Office has requested that the annual fee due date be changed from January 1 to February 28 to allow their automated systems to be uploaded with December 31 year-end information thus enabling them to automate the annual fee calculation process.

DATES: *Effective Date:* This rule is effective April 4, 2008.

FOR FURTHER INFORMATION CONTACT: C.B. Alonso, Guaranteed Rural Rental Housing Program, Multi Family Housing Processing Division, USDA Rural Development, STOP 0781, 1400 Independence Avenue, SW., Washington, DC 20250–0781; Telephone: 202–720–1624; FAX: 202–205–5066; E-mail: *cb.alonso@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Classification

This has been reviewed under Executive Order 12866. The rule has been determined not to be significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Agency Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Public Comments

The Agency received no comments from the publication of the Proposed Rule in the **Federal Register** on October 4, 2006 [Volume 71 **Federal Register** 58545–58546].

Paperwork Reduction Act

There are no new reporting or recordkeeping requirements associated with this rule.

Unfunded Mandates Reform Act

This rule contains no Federal mandates (under the regulatory provisions of title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action affecting significantly the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

The program affected is listed in the Catalog of Federal Domestic Assistance under Number 10.438—Rural Rental Housing Guaranteed Loans.

Intergovernmental Consultation

For the reasons contained in the Final Rule related Notice to 7 CFR part 3015, subpart V, this program, 10.438—Rural Rental Housing Guaranteed Loans, is subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials. The Agency has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local Governments. Therefore, consultation with the States is not required.

Discussion

Rural Development administers the Section 538 Guaranteed Rural Rental Housing Program (GRRHP) under the authority of the Housing Act of 1949. Under the GRRHP, Rural Development guarantees loans for the development of housing and related facilities for low or moderate-income families in rural areas.

Rural Development is amending 7 CFR 3565.53(b) to change the due date of the annual guarantee fee. The annual fee is a non-refundable amount that the lender must pay each year that the loan guarantee remains in effect. Currently, the Finance Office in St. Louis calculates annual fees manually since the borrower submissions of December 31 year-end financial information are not loaded into the Finance Office's automated systems by January 1, when annual fees are due. The Finance Office has requested that the annual fee due date be changed from January 1 to February 28 to allow their automated systems to be uploaded with December 31 year-end information. The revision of 7 CFR 3565.53(b) will facilitate the automation of the annual fee calculation process. Rural Development has been charging this fee since the inception of the GRRHP and is authorized under 42 U.S.C. 1490p–2(g) and is authorized under 42 U.S.C. 1490p–2(u) to retain this fee to offset the cost of the guarantee.

List of Subjects in 7 CFR Part 3565

Guaranteed loans, Low and moderate income housing, Surety bonds.

■ For the reasons set forth in the preamble, Title 7, Chapter XXXV of the Code of Federal Regulations is amended as follows:

PART 3565—GUARANTEED RURAL RENTAL HOUSING PROGRAM

■ 1. The authority citation for part 3565 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart B—Guarantee Requirements

■ 2. Section 3565.53(b) is revised to read as follows:

§ 3565.53 Guarantee fees.

* * * * *

(b) *Annual guarantee fee.* An annual guarantee fee of at least 50 basis points (one-half percent) of the outstanding principal amount of the loan will be charged each year or portion of a year that the guarantee is in effect. This fee will be collected on February 28, of each calendar year.

* * * * *

Dated: February 19, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E8–4288 Filed 3–4–08; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0195; Directorate Identifier 2008–CE–008–AD; Amendment 39–15387; AD 2008–04–15]

RIN 2120–AA64

Airworthiness Directives; Cameron Balloons Ltd. Models AX5–42 (S.1), AX5–42 BOLT, AX6–56 (S.1), AX6–56A, AX6–56Z, AX6–56 BOLT, AX7–65 (S.1), AX7–65Z, AX7–65 BOLT, AX7–77 (S.1.), AX7–77A, AX7–77Z, AX7–77 BOLT, AX8–90 (S.1), AX8–90 (S.2), AX8–105 (S.1), AX8–105 (S.2), AX9–120 (S.1), AX9–120 (S.2), AX9–140 (S.2), AX10–160 (S.1), AX10–160 (S.2), AX10–180 (S.1), AX10–180 (S.2), AX210 (S.2), AX11–225 (S.2), and AX11–250 (S.2) Balloons

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

Defective inlet self-seal valves have been identified. Detachment of a seal inside the valve could result in partial or complete blockage of the burner supply.

On a hopper balloon this failure would result in an uncontrolled descent. In some circumstances this could result in serious injury.

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

DATES: This AD becomes effective March 25, 2008.

On March 25, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by April 4, 2008.

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

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

Examing the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority, which is the aviation authority for the United Kingdom, has issued AD No: G–2008–0002, dated January 14, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Defective inlet self-seal valves have been identified. Detachment of a seal inside the valve could result in partial or complete blockage of the burner supply.

On a hopper balloon this failure would result in an uncontrolled descent. In some circumstances this could result in serious injury.

The MCAI requires you inspect fuel gas cylinder to identify whether the cylinder liquid valve is from the affected batch of valves and replace any self-seal valve found from the affected batch.

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

Relevant Service Information

Cameron Balloons Ltd. has issued Service Bulletin No. SB16, dated January 8, 2008; and Service Bulletin No. SB17, dated January 8, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

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

This design cylinder liquid valve may also be installed on balloon models of Cameron Balloons USA. The corrective actions in the AD are specified to Cameron Balloons Ltd. Models, for which the United Kingdom is the State of Design. We are currently evaluating other valve installations on Cameron Balloons USA, for which the United States is the State of Design. We are evaluating these other installations and, based on the evaluation, may consider additional rulemaking on this subject.

Differences Between This AD and the MCAI or Service Information

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

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk of the flying public justifies waiving notice and comment prior to adoption of this rule because detachment of a seal inside the valve could result in partial or complete blockage of the burner supply. This failure could result in an uncontrolled descent and serious injury. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0195; Directorate Identifier 2008–CE–008–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 of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Lists of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–04–15 Cameron Balloons Ltd.: Amendment 39–15387; Docket No. FAA–2008–0195; Directorate Identifier 2008–CE–008–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 25, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all of the balloon models listed below, certificated in any category, that incorporate Cameron Balloons Ltd. fuel cylinders fitted with rego-type cylinder liquid valves part number (P/N) CB–0824–0001 that are date-stamped from 12/05 through 08/06: Models AX5–42 (S.1), AX5–42 BOLT, AX6–56 (S.1), AX6–56A, AX6–56Z, AX6–56 BOLT, AX7–65 (S.1), AX7–65Z, AX7–65 BOLT, AX7–77 (S.1), AX7–77A, AX7–77Z, AX7–77 BOLT, AX8–90 (S.1), AX8–90 (S.2), AX8–105 (S.1), AX8–105 (S.2), AX9–120 (S.1), AX9–120 (S.2), AX9–140 (S.2), AX10–160 (S.1), AX10–160 (S.2), AX10–180 (S.1), AX10–180 (S.2), AX210 (S.2), AX11–225 (S.2), and AX11–250 (S.2) balloons.

Subject

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

Reason

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

Defective inlet self-seal valves have been identified. Detachment of a seal inside the valve could result in partial or complete blockage of the burner supply.

On a hopper balloon this failure would result in an uncontrolled descent. In some circumstances this could result in serious injury.

The MCAI requires you inspect the fuel cylinder to identify whether the cylinder liquid valve is from the affected batch of valves and replace any self-seal valve found from the affected batch.

Actions and Compliance

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

(1) Before further flight as of March 25, 2008. (the effective date of this AD), inspect any gas cylinder to identify whether the cylinder liquid valve is from the affected batch of valves following Cameron Balloons Ltd. Service Bulletin No. SB16, dated January 8, 2008; and Cameron Balloons Ltd. Service Bulletin No. SB17, dated January 8, 2008.

(2) For single cylinder balloons or multi-cylinder hopper balloons: Before further flight, if you find any cylinder liquid valve from the affected batch (rego-type cylinder liquid valve P/N CB–0824–0001 which is date-stamped from 12/05 through 08/06) installed as a result of the inspection required by paragraph (f)(1) of this AD, replace the self-seal valve following Cameron Balloons Ltd. Service Bulletin No. SB16, dated January 8, 2008; and Cameron Balloons Ltd. Service Bulletin No. SB17, dated January 8, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Special Flight Permit

(h) We are not issuing any special flight permit for you to operate any single cylinder or multi-cylinder (used on a hopper balloon) balloon which has any rego-type cylinder liquid valve P/N CB–0824–0001 fitted and which is date-stamped from 12/05 through 08/06.

Related Information

(i) Refer to MCAI United Kingdom Civil Aviation Authority AD No.: G–2008–0002, dated January 14, 2008; Cameron Balloons Ltd. Service Bulletin No. SB16, dated January 8, 2008; and Cameron Balloons Ltd. Service Bulletin No. SB17, dated January 8, 2008, for related information.

Material Incorporated by Reference

(j) You must use Cameron Balloons Ltd. Service Bulletin No. SB16, dated January 8, 2008; and Cameron Balloons Ltd. Service Bulletin No. SB17, dated January 8, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Cameron Balloons Ltd., St. Johns Street, Bedminster, Bristol; BS3 4NH; telephone: +44 (0) 117 9637216; fax: +44 (0) 177 966168; or Cameron Balloons, P.O. Box 3672, Ann Arbor, Michigan 46106; telephone: (734) 426–5525; fax: (734) 426–5026.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on February 14, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 08–786 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0080]

RIN 1625–AA00

Safety Zone; Bass Wedding Fireworks Display, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for loading, transport, and launching of fireworks used to celebrate the Bass Wedding Ceremony. The fireworks displays will be held on March 8, 2008, on San Francisco Bay. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with the pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative.

DATES: This rule is effective from 11:59 a.m. on March 6, 2008, until 9:30 p.m. on March 8, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0080 and are available online at *www.regulations.gov*. They are also available for inspection or copying two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 399–7436.

SUPPLEMENTARY INFORMATION:

Regulatory Information

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, the safety zone is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in the fireworks display.

Background and Purpose

The Bass Wedding Party is sponsoring a brief fireworks display on March 8, 2008 to celebrate the wedding of Mr. and Mrs. Bass. The fireworks display is scheduled to launch at 9 p.m., on March 8, 2008, and last approximately twenty minutes. The safety zone is being issued to establish a temporary regulated area on San Francisco Bay around the fireworks launch barge during loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. The safety zone around the launch barge is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone on specified waters of San Francisco Bay. During the loading of the fireworks barge, while the barge is being towed to the display location, and until 8:45 p.m. on March, 8, 2008, the safety zone will apply to the navigable waters around and under the fireworks barge within a radius of 100

feet. From 8:45 p.m. to 9:30 p.m. on March 8, 2008, the area to which the safety zone applies will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet.

Loading of pyrotechnics onto the fireworks barge at 11:59 a.m. on March 6, 2008, and will take place at Pier 20, 2900 Main Street, in Alameda, CA. Towing of the barge from Pier 20 to the display location is scheduled to take place between 6 p.m. and 7 p.m. on March 8, 2008. During the fireworks display, scheduled to commence at 9 p.m., the fireworks barge will be located approximately 600 feet off of Treasure Island in San Francisco, CA in position 37°49′12.90″ N, 122°22′37.93″ W (NAD83).

The effect of the temporary safety zone will be to restrict general navigation in the vicinity of the fireworks barge while the fireworks are loaded at Pier 20 during the transit of the fireworks barge, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone. This safety zone is needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are pleasure craft engaged in recreational activities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of San Francisco Bay to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

List of Subjects in 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 part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

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

■ 2. Add temporary § 165–T11–011 to read as follows:

§ 165–T11–011 Safety Zone; Bass Wedding Fireworks Display, San Francisco, CA.

(a) *Location.* This temporary safety zone is established for the waters of San Francisco Bay surrounding a barge used as a launch platform for a fireworks display.

(1) Loading of pyrotechnics onto the fireworks barge will commence at 11:59 a.m. on March 6, 2008, and will take place at Pier 20, 2900 Main Street, in Alameda, CA.

(2) Towing of the barge from Pier 20 to the display location is scheduled to take place between 6 p.m. and 7 p.m. on March 8, 2008.

(3) During the fireworks display, scheduled to commence at 9 p.m., on March 8, 2008, the barge will be located 600 feet from Treasure Island in San Francisco, CA in position 37[deg]49′12.90″ N, 122[deg]22′37.93″ W (NAD83).

(b) *Enforcement Period.* This section will be enforced from 11:59 a.m. on March 6, 2008, to 9:30 p.m. on March 8, 2008. If the events conclude prior to their scheduled termination times, the Coast Guard will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, San Francisco, or the designated representative.

(3) Designated representative means any commissioned, warrant, and petty officer of the Coast Guard onboard a Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessel who is authorized to act on behalf of the Captain of the Port, San Francisco.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Persons and vessels may request permission to enter the safety zone on VHF–16 or the 24-hour Command Center via telephone at (415) 399–3547.

(5) The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: February 19, 2008.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. E8–4263 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0555; FRL–8350–8]

Acetic acid, [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester (Cloquintocet-mexyl); Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR 180.560 to add a reference to the active ingredient pyroxsulam to the tolerance for the inert ingredient cloquintocet-mexyl (acetic acid [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester; CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinolinoxyacetic acid). EPA is also revising existing tolerance levels for cloquintocet-mexyl in or on wheat, forage and wheat, hay, and is removing the specification of a 1:4 ratio inert ingredient safener to active ingredient from the tolerance expression. Dow AgroSciences, LLC and Syngenta Crop Protection requested the tolerance amendments for the inert ingredient safener cloquintocet-mexyl under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 5, 2008. Objections and requests for hearings must be received on or before May 5, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0555. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly

available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: R. Tracy Ward, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9361; e-mail address: *ward.tracyh@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0555 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before May 5, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0555, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA has received several petitions requesting amendments to the existing tolerances for the inert ingredient (safener) cloquintocet-mexyl (acetic acid [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester; CAS Reg. No. 99607–70–2). The most recent final rule that established tolerances for this safener was published in the **Federal Register** of December 16, 2005 (70 FR 74679) (FRL–7753–4). That final rule provides a description of the toxicity data and risk assessments for cloquintocet-mexyl, and the reader is referred to it for additional information. The new petitions received by the Agency are summarized below.

In the **Federal Register** of May 9, 2007 (72 FR 26375) (FRL–8121–5), the Agency issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a announcing the filing of pesticide petition PP 7E7194 by Dow AgroScience, LLC, 9330 Zionsville Rd, Indianapolis, Indiana 46268–1053. The petition requested that 40 CFR 180.560 be amended by adding reference to the active ingredient pyroxsulam for use in pesticide formulations with the inert ingredient safener cloquintocet-mexyl (acetic acid [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester; CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinolinoxyacetic acid) in or on wheat, grain at 0.10 parts per million (ppm), wheat, forage at 0.1 ppm, wheat, hay at 0.10 ppm, and wheat, straw at 0.10 ppm. In support of the proposed use of cloquintocet-mexyl combined with pyroxsulam, Dow AgroSciences submitted four residue chemistry studies:

1. A magnitude of the residue study depicting the residues of cloquintocet-mexyl in wheat grain, forage, hay, and straw,
2. A storage stability study,
3. An analytical method study, and
4. An independent laboratory validation (ILV) of the analytical method.

Docket ID number EPA–HQ–OPP–2007–0335 was established for this petition. No comments were received for this notice. This docket has now been linked to the docket established for this final rule (EPA–HQ–OPP–2007–0555).

The Agency issued a notice in the **Federal Register** of August 22, 2007 (72 FR 47010) (FRL–8145–1) announcing the filing of a pesticide petition PP 7E7233 by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300. The petition requested that 40 CFR 180.560 be amended by

increasing the existing tolerances for residues of cloquintocet-mexyl and its acid metabolite (5-chloro-8-quinlinoxyacetic acid) when used as an inert ingredient safener in or on the raw agricultural commodities wheat, forage at 0.20 ppm (from the existing tolerance of 0.10 ppm) and wheat, hay at 0.50 ppm (from the existing tolerance of 0.10 ppm). The docket for this notice is EPA–HQ–OPP–2007–0555. No comments were received for this notice.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.'' These provisions were added to FFDCA by the Food Quality Protection Act (FQPA) of 1996.

III. Risk Characterization and Conclusion

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cloquintocet-mexyl are discussed in this unit. EPA has sufficient data to assess the hazards of and make a determination on aggregate exposure for the chemical.

The following provides a brief summary of the risk assessment and conclusions for the Agency's review of cloquintocet-mexyl. The Agency's full decision document and risk assessments for this action are available on EPA's Electronic Docket at *http://www.regulations.gov/* under docket ID number EPA–HQ–OPP–2007–0555. For the full toxicity data and information on which this risk assessment is based, the reader is referred to a final rule establishing tolerances for cloquintocet-mexyl that published in the December 16, 2005, **Federal Register** (70 FR 74679).

A. Human Health

In the final rule published in the **Federal Register** of December 16, 2005 (70 FR 74679) that established tolerances for cloquintocet-mexyl, the Agency reviewed the available information on cloquintocet-mexyl submitted by the petitioners as well as additional information available to EPA. The toxicity database is sufficient for cloquintocet-mexyl and has not changed since that time. Therefore, only a brief summary is provided here. Cloquintocet-mexyl has a low order of acute oral, dermal and inhalation toxicity. It is slightly irritating to the eyes and non-irritating to the skin. Cloquintocet-mexyl is a skin sensitizer. The chemical is not genotoxic and is not a reproductive and developmental toxicant. There is no evidence of neurotoxicity in the available studies. Cloquintocet-mexyl is classified as ''not likely to be a human carcinogen.'' The main metabolite for cloquintocet-mexyl is 5-chloro-8-quin-linoxyacetic acid, and testing on the metabolite is part of the toxicology database for cloquintocet-mexyl. Based on the available information, the Agency concludes that there is no concern for increased susceptibility in offspring to cloquintocet-mexyl, and the additional tenfold safety factor for the protection of infants and children is also unnecessary. For additional information on the Human Health toxicity data for cloquintocet-mexyl and its metabolite, see the docket and the **Federal Register** of December 16, 2005 (70 FR 74679).

B. Exposure Assessment

In examining aggregate exposure, the FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). In the 2005 rulemaking, EPA assessed human exposure to cloquintocet-mexyl from use on wheat and barley. EPA assumed that 100 percent of the wheat and barley crops were treated with cloquintocet-mexyl and that residues on all wheat and barley commodities were at the tolerance level. This assessment is sufficient for the current amendments to the cloquintocet-mexyl tolerance because (1) no new crops are being added to the tolerance; and (2) EPA has determined that higher tolerance levels being established for the animal feeds of wheat, hay, and forage will not result in finite residues in livestock commodities. For additional information on the exposure assessment for cloquintocet-mexyl, see the docket and the **Federal Register** of December 16, 2005 (70 FR 74679).

The first petition (PP 7E7194) requested that cloquintocet-mexyl be used with an additional active ingredient (pyroxsulam), and the second petition (PP 7E7233) requested increases in wheat tolerances. The Agency's exposure assessments documents are found in this docket. The following are summaries of the conclusions.

PP 7E7194: Adding Pyroxsulam. Dow AgroScience's petition (PP 7E7194) requested the cloquintocet-mexyl be allowed to be used in formulations of the active ingredient pyroxsulam, and that tolerances of 0.10 ppm be established on wheat grain, forage, hay, and straw. Dow AgroSciences submitted four residue chemistry studies:

1. A magnitude of the residue study depicting the residues of cloquintocet-mexyl in wheat grain, forage, hay, and straw,
2. A storage stability study,
3. An analytical method study, and
4. An independent laboratory validation (ILV) of the analytical method. Evaluation of the data was accomplished as part of a joint review by Australia, Canada, and the United States.

The results of the residue field trials did not exceed the currently established cloquintocet-mexyl tolerances for wheat commodities. All the observed residues were less than half of the established tolerances and were not significantly higher than the method Level of Quantification (LOQ). Therefore, the active ingredient pyroxsulam can be added to the current tolerance for cloquintocet-mexyl. The current wheat tolerances are adequate and do not need to be modified as a result of the addition of the new active ingredient.

PP 7E7233: Increasing wheat tolerances for cloquintocet-mexyl. Syngenta Crop Protection's petition (PP 7E7233) requested that existing tolerances for cloquintocet-mexyl and its metabolite be amended to increase wheat, forage from 0.10 to 0.20 ppm and wheat, hay from 0.10 to 0.50 ppm. The Agency is granting the requested increase in tolerances for cloquintocet-mexyl and its metabolite on wheat,

forage at 0.20 ppm and wheat, hay at 0.50 ppm.

EPA has no objection to raising the tolerances for wheat, forage from 0.1 ppm to 0.20 ppm and wheat, hay from 0.1 to 0.50 ppm. EPA developed livestock secondary residue calculations assuming levels of 0.20 ppm for wheat, forage and 0.50 ppm for wheat, hay. Because of the low levels of total radioactive residues found in livestock commodities in the ruminant and poultry metabolism studies and the corresponding low radioactive residues calculated for the 1X feeding levels, ruminant and poultry feeding studies are not needed, tolerances on livestock commodities are not needed, and analytical methods for livestock commodities are not needed. The uses on wheat fall under 40 CFR 180.6(a)(3) since no secondary residues are expected to occur in livestock commodities.

The results of field residue trial show that when used with the active ingredient pyroxsulam, residues of cloquintocet-mexyl were less than half of the established tolerances and not significantly higher than the method LOQ. And no secondary residues are expected to occur in livestock commodities from the increase of cloquintocet-mexyl wheat, hay, and forage tolerances. Therefore, the previously conducted cloquintocet-mexyl aggregate exposure assessments can be used in evaluating the addition of this active ingredient and the increase to wheat, hay, and forage tolerances. The following summary of aggregate exposure risks of cloquintocet-mexyl from acute and chronic dietary exposures and drinking water exposures is taken from the ''Aggregate Risks and Determination of Safety'' section of the final rule for cloquintocet-mexyl (70 FR 74679) published December 16, 2005.

There are no residential uses for cloquintocet-mexyl at this time. Therefore, the acute aggregate risk assessment includes exposure estimates from food and drinking water only.

''The food and water exposure estimates for females 13-49 yrs old is <1% of the acute population adjusted dose (aPAD). The acute risk estimate for females 13-49 years, resulting from aggregate exposure to cloquintocet-mexyl in food and drinking water is below EPA's level of concern.''

The following summarizes the chronic aggregate exposure risks of cloquintocet-mexyl:

''The aggregate chronic risk assessment takes into account average exposure estimates from dietary consumption of cloquintocet-mexyl (food and drinking water) and residential uses. Since there are no residential uses for cloquintocet-mexyl (either established or pending) at this time, the aggregate chronic assessment included exposures from food and drinking water only. Since the dietary exposure assessment already includes the highest chronic exposure from the drinking water modeling data, no further calculations are necessary. The general U.S. population and all population subgroups have exposure and risk estimates which are below the Agency's level of concern (i.e., the percentages of the chronic population adjusted doses (cPADs) are all below 100%). The exposure to the U.S. population is <1% cPAD and the most highly exposed subgroup, children 3-5 yrs old, is 1% cPAD. Therefore, chronic risk estimates resulting from aggregate exposure to cloquintocet-mexyl in food and drinking water are below the Agency's level of concern from all population subgroups.''

There are no residential or non-pesticidal uses for cloquintocet-mexyl. Therefore, no further aggregate assessment is necessary. For additional information on the Exposure Assessment for cloquintocet-mexyl, see the docket and the **Federal Register** of December 16, 2005 (70 FR 74679).

C. Safety Factor for Infants and Children

Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. The toxicity database is sufficient for cloquintocet-mexyl and potential exposure is adequately characterized based on modeling. In terms of hazard, there are low concerns and no residual uncertainties regarding pre-natal and/or post-natal toxicity. Accordingly, EPA concludes that the additional tenfold safety factor for the protection of infants and children is unnecessary. For additional information on the Safety Factor determination for infants and children for cloquintocet-mexyl, see the docket and the **Federal Register** of December 16, 2005 (70 FR 74679).

D. Cumulative Exposure

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to cloquintocet-mexyl and any other substances, and the chemical does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cloquintocet-mexyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

E. Other Considerations

1. Analytical Methods

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*. For the complete description of Analytical Methods for cloquintocet-mexyl, see the docket and the Federal Register of December 16, 2005 (70 FR 74679).

2. Storage Stability

The petitioner submitted the results of a storage stability study that was performed to support the field trials. Samples of wheat grain, wheat straw, wheat forage, spinach, tomatoes, potatoes, and soybeans were fortified with cloquintocet-mexyl and cloquintocet acid to levels of 0.01 and 0.10 ppm. After 9 months of storage at temperatures of ≤-20 C, percent recoveries of cloquintocet-mexyl ranged from 74-107% and percent recoveries of cloquintocet acid ranged from 72-101%. The storage stability data are adequate to support the storage durations used in the field trials.

3. International Tolerances

There are no Codex tolerances for cloquintocet-mexyl. Australia has established maximum residue limits

(MRLs) for cloquintocet-mexyl on wheat and barley at 0.1 ppm.

F. Determination of Safety and Conclusions

The Agency is granting the requested increase in tolerances for cloquintocet-mexyl and its metabolite on wheat, forage at 0.20 ppm and wheat, hay at 0.50 ppm. The Agency is also granting the requested addition of reference to the active ingredient pyroxsulam for use with the inert ingredient safener cloquintocet-mexyl on wheat. In addition, the Agency is removing the specification of a 1:4 ratio of cloquintocet-mexyl to active ingredient from the existing tolerance expression of 40 CFR 180.560. The specification is not necessary when numerical tolerances are already established.

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm to the general population, including infants and children, from aggregate exposure to residues of cloquintocet-mexyl and its metabolite. Accordingly, EPA finds that the tolerances described above for residues of cloquintocet-mexyl and its metabolite will be safe.

IV. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to petitions submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, this rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 20, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.560 is amended by revising paragraph (a) to read as follows:

§ 180.560 Cloquintocet-mexyl (acetic acid [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester; CAS Reg. No. 99607–70–2); tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of cloquintocet-mexyl (acetic acid [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester; CAS Reg. No. 99607–70–2) and its acid metabolite (5-chloro-8-quinlinoxyacetic acid) when used as an inert ingredient (safener) in pesticide formulations containing the active ingredients pinoxaden (wheat or barley), clodinafop-propargyl (wheat only), or pyroxsulum (wheat only) in or on the following food commodities:

Commodity	Parts per million
Barley, grain	0.1
Barley, hay	0.1
Barley, straw	0.1
Wheat, forage	0.2
Wheat, grain	0.1
Wheat, hay	0.5
Wheat, straw	0.1

* * * * *

[FR Doc. E8–4023 Filed 3–4–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0495; FRL–8352–2]

Methoxyfenozide; Pesticide Tolerances and Time-Limited Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of methoxyfenozide per se; benzoic acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide in or on the food commodities acerola; animal feed, nongrass, group 18, forage; animal feed, nongrass, group 18, hay; avocado; bean,

dry, seed; bushberry subgroup 13-07B; canistel; feijoa; grass, forage, fodder and hay, group 17, forage; grass, forage, fodder and hay, group 17, hay; guava; jaboticaba; kurrat; mango; onion, green, subgroup 3-07B; papaya; passionfruit; peanut; peanut, hay; peanut oil; sapodilla; sapote, black; sapote, mamey; star apple; starfruit; vegetable, tuberous and corm, except potato, sub group 1D; and wax jambu. This regulation also establishes time-limited tolerances for indirect or inadvertent residues of methoxyfenozide; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide and indirect or inadvertent combined residues of methoxyfenozide and its metabolites RH-117,236 free phenol of methoxyfenozide; 3,5-dimethylbenzoic acid N-tert-butyl-N'-(3-hydroxy-2-methylbenzoyl) hydrazide, RH-151,055 glucose conjugate of RH-117,236; 3,5-dimethyl benzoic acid N-tert-butyl-N-[3 ([beta]-D-glucopyranosyloxy)-2-methylbenzoyl]-hydrazide and RH-152,072 the malonylglycosyl conjugate of RH 117,236 in or on the food commodities animal feed, nongrass, group 18; grain, cereal, forage, fodder and straw, group 16; grass forage, fodder, and hay, group 17; herb and spice, group 19; vegetable, bulb, group 3-07; vegetable, foliage of legume, group 7; vegetable, leaves of root and tuber, group 2; vegetable, legume, group 6; and vegetable, root and tuber, group 1. Dow AgroSciences LLC and Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). The time-limited tolerances will expire on September 30, 2010.

DATES: This regulation is effective March 5, 2008. Objections and requests for hearings must be received on or before May 5, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0495. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Public Docket, in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mark Suarez, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0120; e-mail address: *suarez.mark@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311) , e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0495 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 5, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2007–0495, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg., 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for

deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerances

In the **Federal Register** of October 20, 2006 (71 FR 61971) (FRL–8098–6), August 1, 2007 (72 FR 42072) (FRL–8138–1), and October 24, 2007 (72 FR 60367) (FRL–8154–1), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PPs 6E7086, 7E7218, 6F7135, and 0F6201) by, Dow AgroSciences LLC, Zionsville Road -Indianapolis, IN 46268 (PPs 6F7135 and 0F6201) and IR-4, 500 College Road East, Suite 201 W., Princeton, NJ 08540 (PPs 7E7218 and 6E7086). The petitions requested that 40 CFR 180.544 be amended by establishing tolerances for residues of the insecticide, methoxyfenozide, in or on the food commodities acerola at 0.4 parts per million (ppm) (PP 7E7218); arionia berry at 3.0 ppm (PP 6E7086); avocado at 0.6 ppm (PP 7E7218); bean, dry, seed at 0.15 ppm (PP 6E7086); blueberry, lowbush at 3.0 ppm (PP 6E7086); buffalo currant at 3.0 ppm (PP 6E7086); bushberry subgroup 13B at 3.0 ppm (PP 6E7086); canistel at 0.6 ppm (PP 7E7218); Chilean guava at 3.0 ppm (PP 6E7086); chive, Chinese, fresh leaves at 5.0 ppm (PP 7E7218); chive, fresh leaves at 5.0 ppm (PP 7E7218); elegans hosta at 5.0 ppm (PP 7E7218); European barberry at 3.0 ppm (PP 6E7086); feijoa at 0.4 ppm (PP 7E7218); fritillaria leaves at 5.0 ppm (PP 7E7218); grass forage, fodder, and hay group 17, forage at 18.0 ppm (PP 6E7086); grass forage, fodder, and hay, group 17, hay at 30.0 ppm (PP 6E7086); guava at 0.4 ppm (PP 7E7218); highbush cranberry at 3.0 ppm (PP 6E7086); honeysuckle at 3.0 ppm (PP 6E7086); jaboticaba at 0.4 ppm (PP 7E7218); jostaberry at 3.0 ppm (PP 6E7086); juneberry at 3.0 ppm (PP 6E7086); kurrat at 5.0 ppm (PP 7E7218); Lady's leek at 5.0 ppm (PP 7E7218); leek at 5.0 ppm (PP 7E7218); leek, wild at 5.0 ppm (PP 7E7218); lingonberry at 3.0 ppm (PP 6E7086); mango at 0.6 ppm (PP 7E7218); native currant at 3.0 ppm (PP 6E7086); nongrass animal feeds, group 18, forage at 35.0 ppm (PP 6F7135); nongrass animal feeds, group 18, hay at 85.0 ppm (PP 6F7135); onion, Beltsville bunching at 5.0 ppm (PP 7E7218); onion, fresh at 5.0 ppm (PP 7E7218); onion, green at 5.0 ppm (PP 7E7218); onion, macrostem at 5.0 ppm (PP 7E7218); onion, tree, tops at 5.0 ppm (PP 7E7218); onion, Welsh, tops at 5.0 ppm (PP 7E7218); papaya at 0.6 ppm (PP 7E7218); passionfruit at 0.4 ppm (PP 7E7218); peanut at 0.02 ppm (PP 6E7086); peanut, hay at 60 ppm (PP 6E7086); peanut oil at 0.09 ppm (PP 6E7086); salal at 3.0 ppm (PP 6E7086); sapodilla at 0.6 ppm (PP 7E7218); sapote, black at 0.6 ppm (PP 7E7218); sapote, mamey at 0.6 ppm (PP 7E7218); sea buckthorn at 3.0 ppm (PP 6E7086); shallot, fresh leaves at 5.0 ppm (PP 7E7218); star apple at 0.6 ppm (PP 7E7218); starfruit at 0.4 ppm (PP 7E7218); vegetable, tuberous and corm, except potato, sub group 1D at 0.02 ppm (PP 6E7086); wax jambu at 0.4 ppm (PP 7E7218). In the petition 0F6201, Dow requested that tolerances that expired on September 30, 2007 be re-established for indirect or inadvertent residues of methoxyfenozide; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide and indirect or inadvertent combined residues of methoxyfenozide; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide and its metabolites RH-117,236 free phenol of methoxyfenozide; 3,5-dimethylbenzoic acid N-tert-butyl-N'-(3-hydroxy-2-methylbenzoyl) hydrazide, RH-151,055 glucose conjugate of RH-117,236; 3,5-dimethyl benzoic acid N-tert-butyl-N-[3 ([beta]-D-glucopyranosyloxy)-2-methylbenzoyl]-hydrazide and RH-152,072 the malonylglycosyl conjugate of RH 117,236 in or on the food commodities grain, cereal, forage, fodder, and straw, group 16 at 10.0 ppm; grass forage, fodder, and hay, group 17 at 10.0 ppm; herb and spice, group 19 at 10.0 ppm; nongrass animal feeds crop group 18 at 10.0 ppm; vegetable, bulb, group 3 at 0.2 ppm; vegetable, foliage of legume, group 7 at 10.0 ppm; vegetable, leaves of root and tuber, group 2 at 0.2 ppm; vegetable, legume, group 6 at 0.1 ppm; and vegetable, root and tuber, group 1 at 0.1 ppm. Those notices referenced summaries of the petitions prepared by Dow AgroSciences LLC and IR-4, the registrants, which are available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notices of filing. EPA's response to these comments is discussed in Unit IV.C. The time-limited tolerances will expire on September 30, 2010.

Based upon review of the data supporting the petition, EPA has modified the tolerance expression for the food commodities bean, dry, seed to 0.24 ppm (PP 6E7086); animal feeds, nongrass, group 18, forage to 50.0 ppm (PP 6F7135); animal feeds, nongrass, group 18, hay to 150.0 ppm (PP 6F7135); onions, green, subgroup 3-07B at 5.0 ppm (PP 7E7218); peanut, hay to 55 ppm (PP 6E7086); peanut oil to 0.04 ppm (PP 6E7086). The reason for these changes is explained in Unit IV.D. EPA is also deleting all the tolerances in § 180.544(b) for sorghum and soybean commodities that are no longer needed since they have expired. The deletions under § 180.544(b) are time-limited tolerances that were established under section 18 emergency exemptions that have since expired.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for tolerances for the petitioned-for tolerances for residues of methoxyfenozide on the food commodities named above. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information

concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicology studies conducted with methoxyfenozide demonstrate that it has few or no biologically significant toxic effects at relatively low-dose levels and only mild or no toxic effects at relatively high-dose levels. In subchronic and chronic oral studies in rats, the most toxicologically significant effects were mild anemia and mild effects on the liver, thyroid gland, and adrenal gland. In subchronic and chronic oral studies in dogs, the predominant toxic effect was anemia, which was often accompanied by signs of a compensatory response. Methoxyfenozide is not acutely toxic, not a dermal sensitizer, not neurotoxic, carcinogenic or mutagenic and is not a developmental or reproductive toxicant. There was no evidence for increased susceptibility of rat or rabbit fetuses to *in utero* exposure or rat pups to post-natal exposure to methoxyfenozide. Minimal or no toxic effects were observed in studies in which methoxyfenozide was administered by the dermal or inhalation routes of exposure. Methoxyfenozide is classified as a ''not likely'' human carcinogen.

Specific information on the studies received and the nature of the adverse effects caused by methoxyfenozide as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA–HQ–OPP–2007–0495 in that docket.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for methoxyfenozide used for human risk assessment can be found at *http://www.regulations.gov* in document ''Methoxyfenozide. Human Health Risk Assessment for Proposed Use on Sweet Potato, Blueberry, Dry Bean, Grass, Peanut, Green Onion, Avocado, Guava, Alfalfa and Clover. PC Code:121027, Petition No: 6E7086, 7E7218, and 6F7135. DP Num: 331948, 340540, and 371933'' at page 30 in docket ID number EPA–HQ–OPP–2007–0495.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to methoxyfenozide, EPA considered exposure under the petitioned-for tolerances as well as all existing methoxyfenozide tolerances in 40 CFR 180.544. EPA assessed dietary exposures from methoxyfenozide in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for methoxyfenozide; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. Methoxyfenozide is not likely to be carcinogenic to humans; therefore, a cancer exposure assessment was not conducted.

iv. *Anticipated residue and percent crop treated*. Anticipated residues/PCT data were not needed to refine the risk assessment so they were not used.

2. *Dietary exposure from drinking water*. Methoxyfenozide is expected to be a ground water and surface water contaminant primarily due to its persistence in the environment.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of methoxyfenozide for acute exposures are estimated to be 43 parts per billion (ppb) for surface water and 7.43 ppb for ground water. The EECs for chronic exposures are estimated to be 33.1 ppb for surface water and <7.43 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 43 ppb was used to access the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 33.1 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Methoxyfenozide is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to methoxyfenozide and any other substances and methoxyfenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that methoxyfenozide has a common

mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly refered to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is not a concern for prenatal and/or postnatal toxicity resulting from exposure to methoxyfenozide. The prenatal and postnatal toxicology database for methoxyfenozide includes rat and rabbit developmental toxicity studies and a 2–generation reproduction toxicity study in rats. There was no quantitative or qualitative evidence of increased susceptibility of rats or rabbit fetuses to *in utero* exposure in the developmental studies; similarly, there was no evidence of increased susceptibility of rat pups following prenatal/postnatal exposure in the 2–generation reproduction study.

3. *Conclusion*. The FQPA SF for the protection of infants and children be removed (i.e. reduced to 1x) for methoxyfenozide for the following reasons:

i. The toxicology database for methoxyfenozide is complete for assessment of potential hazard to infants and children.

ii. Based on weight-of-the-evidence considerations, EPA determined that a developmental neurotoxicity study in rats is not required to support the registration of methoxyfenozide.

iii. In developmental toxicity studies in rats and rabbits, no increased susceptibility in fetuses as compared to maternal animals was observed following *in utero* exposures.

iv. In a 2–generation reproduction study in rats, no increased susceptibility in pups as compared to adults was observed following *in utero* and postnatal exposures.

v. The exposure assessments will not underestimate the potential dietary (food and drinking water) or nondietary exposures for infants and children from the use of methoxyfenozide. The chronic dietary food exposure assessment utilizes tolerance level residues and assumes 100 PCT. Conservative ground water and surface water modeling estimates were used. These assessments will not underestimate the exposure and risks posed by methoxyfenozide.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate- and log-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UTs is not exceeded.

1. *Acute risk*. No acute risk is expected from exposure to methoxyfenozide since no acute endpoints were identified for the general U.S. population (including infants and children) or the females 13-50 years old population subgroup.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to methoxyfenozide from food and water will utilize 56% of the cPAD for the most highly exposed population group, children 1-2 years old. There are no residential uses for methoxyfenozide.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Methoxyfenozide is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Methoxyfenozide is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Methoxyfenozide is classified as a ''not likely'' human carcinogen and thus is not expected to pose a cancer risk to humans.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to methoxyfenozide residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high pressure liquid chromatography with mass spectrometry (HPLC/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no Codex, Canadian or Mexican MRLs for methoxyfenozide, so there are no international harmonization issues associated with this action.

C. Response to Comments

Public comments were received from a citizen who objected to the proposed tolerances because ''methoxyfenozide harms fish and birds so that they die'' and also opposes ''any exemption or residue left on plants after use from this product.'' The comments contained no scientific data or evidence to rebut the Agency's conclusion that there is a reasonable certainty that no harm will result from human or environmental exposure to methoxyfenozide. EPA has responded to similar comments on numerous previous occasions. (January 7, 2005, 70 FR 1349) (October 29, 2004, 69 FR 63083).

D. Explanation of Tolerance Revisions

The tolerances established here have been modified in some instances from the tolerances originally proposed in the notices of filing. These modifications have been based upon specific data, as described in unit IV.D. The data indicate that the requested tolerance on dry beans at 0.15 ppm is not appropriate

since the field trial data indicate that residues could be higher than the tolerance request. Therefore, a more appropriate tolerance is being established for the residues of methoxyfenozide on bean, dry at 0.24 ppm. The data for peanut hay are adequate. EPA's Review indicates that the requested tolerance of 60 ppm is not appropriate. Therefore, a more appropriate tolerance is being established for the residues of methoxyfenozide on peanut, hay at 55.0 ppm. The data for animal feed, nongrass, group 18, forage and hay are adequate. EPA's Review indicates that the requested tolerances are not appropriate. Residue field trial data from representative crops should be analyzed separately and the highest result used for tolerance setting purposes. This was not done. A more appropriate tolerance is being established for the residues of methoxyfenozide on animal feed, nongrass, group 18, forage at 50 ppm, and hay at 150 ppm. The only processed commodities of regulatory concern for this petition are peanut meal and oil. A study was conducted using a 3x exaggerated application rate to the peanut raw agricultural commodity and simulated commercial processing to produce the peanut processed commodities. Results of the study indicate that residues of methoxyfenozide are not expected to concentrate in peanut meal but do concentrate 3x in oil. The requested tolerance level for peanut oil is inadequate. Using the highest average field trial values from the submitted field trial data and the concentration factor for peanut oil, the tolerance level should be 0.04 ppm.

IR-4 petitioned for individual tolerances on green onion, fresh chive leaves, fresh Chinese chive leaves, elegans hosta, fritillaria leaves, kurrat, Lady's leek, leek, wild leek, Beltsville bunching onion, fresh onion, macrostem onion, tree onion tops, Welsh onion tops, and fresh shallot leaves at 5.0 ppm (PP 7E7128) as well as for a tolerance for bushberry subgroup 13B and individual tolerances on aronia berry, buffalo currant, Chilean guava, European barberry, highbush cranberry, honeysuckle, jostaberry, juneberry, lingonberry, native currant, salal, and sea buckthorn (PP 6E7086).

In the **Federal Register** of December 7, 2007 (72 FR 69150) (FRL–8340–6), EPA issued a final rule that revised the crop grouping regulations. As part of this action, EPA expanded and revised bulb vegetables group 3. Changes to crop group 3 (bulb vegetables) included adding new commodities, creating subgroups for bulb and green onions, and changing the name of one of the representative commodities from ''onion, dry bulb'' to ''onion, bulb.'' EPA also expanded and revised berries group 13. Changes to crop group 13 (berries) included adding new commodities, revising existing subgroups and creating new subgroups (including a bushberry subgroup 13-07B consisting of the commodities requested in PP 6E7086 and cultivars, varieties, and/or hybrids of these).

EPA indicated in the December 7, 2007 final rule as well as the earlier May 23, 2007 proposed rule (72 FR 28920) (FRL–8126–1) that, for existing petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the rule. Therefore, consistent with this rule, EPA is establishing tolerances on onion, green, subgroup 3-07B and bushberry subgroup 13-07B.

EPA concludes it is reasonable to revise the petitioned-for tolerances so that they agree with the recent crop grouping revisions because:

1. Although the subgroups are new the commodities in the new group were proposed as individual tolerances and the added commodities are closely related minor crops which contribute little to overall dietary or aggregate exposure and risk; and

2. Methoxyfenozide exposure from these added commodities was considered when EPA conducted the dietary and aggregate risk assessments supporting this action.

V. Conclusion

Therefore, tolerances are established for residues of methoxyfenozide; benzoic acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide, in or on the food commodities acerola at 0.4 ppm; animal feeds, nongrass, group 18, forage at 50.0 ppm; animal feeds, nongrass, group 18, hay at 150.0 ppm; avocado at 0.6 ppm; bean, dry, seed at 0.24 ppm; bushberry subgroup 13-07B at 3.0 ppm; canistel at 0.6 ppm; feijoa at 0.4 ppm; grass, forage, fodder, and hay group 17, forage at 18.0 ppm; grass, forage, fodder, and hay, group 17, hay at 30.0 ppm; guava at 0.4 ppm; jaboticaba at 0.4 ppm; mango at 0.6 ppm; onions, green, subgroup 3-07B at 5.0 ppm; papaya at 0.6 ppm; passionfruit at 0.4 ppm; peanut at 0.02 ppm; peanut, hay at 55 ppm; peanut oil at 0.04 ppm; sapodilla at 0.6 ppm; sapote, black at 0.6 ppm; sapote, mamey at 0.6 ppm; star apple at 0.6 ppm; starfruit at 0.4 ppm; vegetable, tuberous and corm, except potato, sub group 1D at 0.02 ppm; wax jambu at 0.4 ppm.

Time-limited tolerances are established for the indirect or inadvertent residues for methoxyfenozide in or on vegetable, bulb, group 3 at 0.2 ppm; vegetable, leaves of root and tuber, group 2 at 0.2 ppm; and vegetable, root and tuber, group 1 at 0.1 ppm; and the combined residues of methoxyfenozide; benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide and its metabolites RH-117,236 free phenol of methoxyfenozide; 3,5-dimethylbenzoic acid N-tert-butyl-N'-(3-hydroxy-2-methylbenzoyl) hydrazide, RH-151,055 glucose conjugate of RH-117,236; 3,5-dimethyl benzoic acid N-tert-butyl-N-[3([beta]-D-glucopyranosyloxy)-2-methylbenzoyl]-hydrazide and RH-152,072 the malonylglycosyl conjugate of RH 117,236 in or on the food commodities animal feed, nongrass, group 18 at 10.0 ppm; grain, cereal, forage, fodder and straw, group 16 at 10.0 ppm; grass forage, fodder and hay, group 17 at 10.0 ppm; herb and spice, group 19 at 10.0 ppm; vegetable, foliage of legume, group 7 at 10.0 ppm; and vegetable, legume, group 6 at 0.10 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory

Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 14, 2008.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.544 is amended by:
■ i. Revising the entries ''canistel''; ''mango''; ''papaya''; ''sapodilla''; ''sapote, black''; ''sapote, mamey''; and ''star apple'' in paragraph (a)(1).
■ ii. Alphabetically adding commodities to the table in paragraph (a)(1).
■ iii. Removing the text from paragraph (b) and reserving the heading.
■ iv. Revising the tables in paragraphs (d)(1) and (d)(2) to read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Acerola	0.4
* * * * *	
Animal feed, nongrass, group 18, forage	50.0
Animal feed, nongrass, group 18, hay	150.0
* * * * *	
Avocado	0.6
Bean, dry, seed	0.24
* * * * *	
Bushberry subgroup 13-07B	3.0
Canistel	0.6
* * * * *	
Feijoa	0.4
* * * * *	
Grass, forage, fodder and hay, group 17, forage	18.0
Grass, forage, fodder and hay, group 17, hay	30.0
Guava	0.4
* * * * *	
Jaboticaba	0.4
* * * * *	
Mango	0.6
* * * * *	
Onion, green, subgroup 3-07B	5.0
Papaya	0.6
Passionfruit	0.4
* * * * *	
Peanut	0.02
Peanut, hay	55.0
Peanut, oil	0.04
* * * * *	
Sapodilla	0.6
Sapote, black	0.6
Sapote, mamey	0.6
* * * * *	
Star apple	0.6
Starfruit	0.4
* * * * *	
Vegetable, tuberous and corm, except potato, subgroup 1D	0.02
Wax jambu	0.4

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) * * *

(1) * * *

Commodity	Parts per million	Expiration/ revocation date
Vegetable, bulb, group 3-07	0.20	9/30/10
Vegetable, leaves of root and tuber, group 2	0.20	9/30/10
Vegetable, root and tuber, group 1	0.10	9/30/10

(2) * * *

Commodity	Parts per million	Expiration/ revocation date
Animal feed, non-grass, group 18	10.0	9/30/10
Grain, cereal, forage, fodder and straw, group 16	10.0	9/30/10
Grass, forage, fodder and hay, group 17	10.0	9/30/10
Herb and spice, group 19	10.0	9/30/10
Vegetable, foliage of legume, group 7	10.0	9/30/10
Vegetable, legume, group 6	0.10	9/30/10

[FR Doc. E8–4027 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0308; FRL–8352–5]

Flumioxazin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of flumioxazin in or on alfalfa, forage; alfalfa, hay; asparagus; bean, dry seed; bushberry subgroup 13-07B; melon, subgroup 9A;

nut, tree, group 14; okra; and vegetable, fruiting, group 8. The Interregional Research Project #4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also modifies 40 CFR 180.568(b) by deleting existing time-limited tolerances in/on alfalfa, forage and alfalfa, hay at 0.13 and 0.45 ppm, respectively, made redundant by the newly-established tolerances.

DATES: This regulation is effective March 5, 2008. Objections and requests for hearings must be received on or before May 5, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0308. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0308 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before May 5, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0308, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Registers** of June 27, 2007, (72 FR 35237; FRL–8133–4) and September 28, 2007; (72 FR 55204; FRL–8147–1), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 6E7151 and PP 6F7092, respectively,) by the IR-4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, NJ 08540 and the registrant, Valent U.S.A. Corporation. The petitions requested that 40 CFR 180.568 be amended by establishing tolerances for residues of the herbicide, flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione in or on, commodities alfalfa, forage at 1.0 parts per million (ppm), alfalfa, hay at 2.0 ppm (PP 6F7092), asparagus, aronia berry, buffalo currant, Chilean guava, European barberry, highbush cranberry, honeysuckle, jostaberry, juneberry, lingonberry, native currant, salal, sea

buckthorn, and okra at 0.02 ppm, bushberry subgroup 13B at 0.02 ppm, melon subgroup 9A at 0.02 parts per million (ppm), dry bean at 0.10 ppm, vegetable, fruiting, crop group 8 at 0.02 ppm, and nut, tree, crop group 14, at 0.02 ppm (PP 6E7151). These notices referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*.

There were no comments received in response to the notices of filing.

Based upon review of the data supporting the petitions, EPA has revised certain proposed tolerance levels and corrected commodity definitions as follow:

1. The Agency determined that adequate data are available to support establishing a tolerance for the bushberry subgroup 13–07B. IR–4 petitioned for a tolerance for bushberry subgroup 13B as well as individual tolerances on aronia berry, buffalo currant, Chilean guava, European barberry, highbush cranberry, honeysuckle, jostaberry, juneberry, lingonberry, native currant, salal, and sea buckthorn (PP 6E7151). In the **Federal Register** of December 7, 2007 (72 FR 69150–69158) (FRL–8340–6), EPA issued a final rule that revised the crop grouping regulations. As part of this action, EPA expanded and revised berries group 13. Changes to crop group 13 (berries) included adding new commodities, revising existing subgroups and creating new subgroups (including a bushberry subgroup 13–07B consisting of the commodities requested in PP 6E7151 and cultivars, varieties, and/or hybrids of these).

EPA indicated in the December 7, 2007 final rule as well as the earlier May 23, 2007 proposed rule (72 FR 28920–28930) that, for existing petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the rule. Therefore, consistent with this rule, EPA is establishing tolerances on Bushberry subgroup 13–07B. Bushberry subgroup 13–07B consists of the berries for which tolerances were requested in PP 6E7151.

EPA concludes it is reasonable to revise the petitioned-for tolerances so that they agree with the recent crop grouping revisions because:

i. Although the subgroup includes several new commodities, these commodities were proposed as individual tolerances and are closely related minor crops which contribute little to overall dietary or aggregate exposure and risk;

ii. Flumixoazin exposure from these added commodities was considered when EPA conducted the dietary and aggregate risk assessments supporting this action; and

iii. The representative commodities for the revised subgroup has not changed.

2. The proposed tolerance for bean, dry, was revised to bean, dry, seed and the tolerance level revised from 0.06 ppm to 0.05 ppm.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' These provisions were added to FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for residues of flumioxazin on alfalfa, forage at 3.0 ppm; alfalfa, hay at 8.0 ppm; asparagus at 0.02 ppm; bushberry subgroup 13–07B at 0.02 ppm; melon, subgroup 9A at 0.02 ppm; bean, dry seed at 0.05 ppm; vegetable, fruiting, group 8 at 0.02 ppm; okra at 0.02 ppm; and nut, tree, group 14, at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Flumioxazin has mild or no acute toxicity when administered orally, dermally, or by inhalation. It has little or no toxicity with regard to eye irritation or skin irritation. The chemical, flumioxazin, was not a dermal sensitizer. Subchronic and chronic toxicity studies demonstrated that the target organs of flumioxazin are the liver, spleen and cardiovascular system. Developmental effects were observed in developmental rat studies. These effects were fetal cardiovascular anomalies (especially ventricular septal defects).

Flumioxazin has been classified as a ''Not Likely Human Carcinogen,'' based on the lack of carcinogenicity in a 2–year rat study, an 18–month mouse study, and a battery of mutagenic studies.

Specific information on the studies received and the nature of the adverse effects caused by flumioxazin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov.* in the document; ''Flumioxazin; Human Health Risk Assessment for the Proposed Food Use of the Herbicide Flumioxazin on Alfalfa, Asparagus, Dry Beans, Fruiting Vegetables (Group 8, Including Okra), Melons (Subgroup 9A), Bushberries (Subgroup 13B), and Tree Nuts (Group 14), and a Request for an Amended Use on Garlic,'' dated 28 Nov. 2007. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA–HQ–OPP–2007–0308–0003 in that docket.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the NOAEL in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, LOAEL is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose

(aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day–26/p30948.htm*.

A summary of the toxicological endpoints for flumioxazin used for human risk assessment can be found at *http://www.regulations.gov* in document; ''Flumioxazin; Human Health Risk Assessment for the Proposed Food Use of the Herbicide Flumioxazin on Alfalfa, Asparagus, Dry Beans, Fruiting Vegetables (Group 8, Including Okra), Melons (Subgroup 9A), Bushberries (Subgroup 13B), and Tree Nuts (Group 14), and a Request for an Amended Use on Garlic,'' dated 28 Nov. 2007 in docket ID number EPA–HQ–OPP–2007–0308–0003.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to flumioxazin, EPA considered exposure under the petitioned-for tolerances as well as all existing flumioxazin tolerances in (40 CFR 180.568). EPA assessed dietary exposures from flumioxazin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effect was identified for the general population. However, EPA identified potential acute effects, e.g., cardiovascular effects in offspring, for the population subgroup, females 13 to 49 years.

In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances (current and proposed) were treated (100% crop treated (%CT or PCT) assumption) and contain tolerance-level residues. Percent crop treated (PCT) and/or anticipated residues were not used in the acute risk assessment.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996, and 1998 CSFII. As to residue levels in food, EPA assumed all foods for which there are tolerances (existing and proposed) were treated (100% crop treated assumption) and contain tolerance-level residues. PCT and/or anticipated residues were not used in the chronic risk assessment.

iii. *Cancer*. The Agency has determined that flumioxazin is ''not likely to be a human carcinogen'' based on the lack of carcinogenicity in a 2–rat study, an 18 month mouse study, and a battery of mutagenic studies. Therefore, a quantitative exposure assessment to evaluate cancer risk is unnecessary.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for flumioxazin and its degradates, 482–HA and APF, in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of flumioxazin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the FQPA Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of flumioxazin for acute exposures are estimated to be 34 parts per billion (ppb) for surface water and 48 ppb for groundwater. The EECs for chronic exposures are estimated to be 18 ppb for surface water and 48 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 48 ppb was used to access the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 48 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Flumioxazin is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to flumioxazin and any other substances and flumioxazin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that flumioxazin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for pre-natal and post-natal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Pre-natal and post-natal sensitivity*. The pre-natal and post-natal toxicity database for flumioxazin include the rat and rabbit developmental toxicity studies and the 2–generation reproduction toxicity study in rats. There is evidence of quantitative susceptibility following oral and dermal exposures to rats. Following *in-utero*

exposures, developmental effects (cardiovascular anomalies) were seen in the absence of maternal toxicity. There is no evidence (quantitative or qualitative) of susceptibility following *in-utero* oral exposure in rabbits. No developmental toxicity was seen at the highest dose tested (3x the Limit-Dose). There is quantitative evidence of susceptibility in the multi-generation reproduction study where effects in offspring were seen at doses lower than those which induced effects in parental animals.

Although increased pre-natal and post-natal quantitative susceptibility was seen in rats, the Agency concluded that there is a low concern and no residual uncertainties for pre-natal and/or post-natal toxicity effects of flumioxazin because:

i. Developmental toxicity (including cardiovascular abnormalities) NOAELs and LOAELs from pre-natal exposure are well characterized after oral and dermal exposure,

ii. The off-spring toxicity NOAEL and LOAEL from post-natal exposure are well characterized,

iii. The dose selected for risk assessment is protective of all potential effects.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for flumioxazin is complete.

ii. There is no indication that flumioxazin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. Although there is quantitative evidence of increased susceptibility in the prenatal developmental studies and post-natal multi-generation study in rats, EPA did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of flumioxazin. The degree of concern for pre-natal and/or post-natal toxicity is low.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100%CT and tolerance-level residues for all commodities. By using these screening-level assumptions, chronic exposures/risks will not be underestimated. The dietary drinking water assessment utilizes values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations. These assessments will not underestimate the exposure and risks posed by flumioxazin.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to flumioxazin will occupy 8.0% of the aPAD at the 95th percentile of exposure for the population group, females 13 to 49 years old (the only subpopulation for which an acute endpoint was selected).

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to flumixazim by the general U.S. population and all population subgroups have risk estimates below LOC. Exposure to flumioxazin from food and water will utilize 18% of the cPAD for infants less than 1 year old, the population group with greatest exposure. The general U.S. population utilize 6% of the cPAD. There are no residential uses for flumioxazin that result in chronic residential exposure to flumioxazin.

3. *Short-term and intermediate-term risk*. Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Flumioxazin is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's LOC.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to flumioxazin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography /nitrogen-phosphorus detection) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no established or proposed Canadian, Mexican or Codex maximum residue levels (MRLs) for residues of flumioxazin in plant commodities subject to this action.

V. Conclusion

Therefore, tolerances are established for residues of flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione in or on, commodities alfalfa, forage at 3.0 ppm; alfalfa, hay at 8.0 ppm; asparagus at 0.02 ppm; bushberry subgroup 13–07B at 0.02 ppm; melon subgroup 9A at 0.02 ppm; bean, dry seed at 0.05 ppm; vegetable, fruiting, except cucurbits group 8 at 0.02 ppm; okra at 0.02 ppm; and nut, tree, group 14, at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 22, 2008.

Lois Rossi,

Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.568 is amended by alphabetically adding the following commodities to the table in paragraph (a), and by removing the text and reserving paragraph (b) to read as follows:

§ 180.568 Flumioxazin; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	3.0
Alfalfa, hay	8.0
* * *	* *
Asparagus	0.02
Bean, dry seed	0.05
Bushberry subgroup 13–07B	0.02
* * *	* *
Melon, subgroup 9A	0.02
Nut, tree, group 14	0.02
Okra	0.02
* * *	* *
Vegetable, fruiting, group 8	0.02
* * *	* *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

[FR Doc. E8–4102 Filed 3–4–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0302; FRL–8351–6]

Bifenazate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of bifenazate and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate), in or on acerola; black sapote; caneberry subgroup 13-07A; canistel; feijoa; guava; jaboticaba; longan; lychee; mango; papaya; passionfruit; pea and bean, succulent shelled, subgroup 6B; pulasan; rambutan; sapodilla; sapote, mamey; soybean, succulent shelled; Spanish lime; star apple; starfruit; vegetable, legume, edible-podded, subgroup 6A; and wax jambu. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also deletes existing bifenazate tolerances on ''pea, edible podded, succulent'' and ''pea, garden, succulent'', which are superseded by the new tolerances on ''vegetable, legume, edible-podded, subgroup 6A'' and ''pea and bean, succulent shelled, subgroup 6B'', respectively.

DATES: This regulation is effective March 5, 2008. Objections and requests for hearings must be received on or before May 5, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0302. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Susan Stanton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460–0001; telephone number: (703) 305–5218; e-mail address: *stanton.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0302 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before May 5, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0302, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of June 27, 2007 (72 FR 35237-35242) (FRL–8133–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E7167) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540–6635. The petition requested that 40 CFR 180.572 be amended by establishing tolerances for combined residues of the insecticide bifenazate, 1-methylethyl 2-(4-methoxy[1,1'-biphenyl]-3-yl) hydrazinecarboxylate, and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate), in or on papaya, star apple, black sapote, mango, sapodilla, canistel, and sapote, mamey at 6.0 parts per million (ppm); lychee, longan, Spanish lime, rambutan, and pulasan at 4.0 ppm; feijoa, guava, jaboticaba, wax jambu, starfruit, passionfruit, and acerola at 0.9 ppm; caneberry subgroup 13A at 6.0 ppm; wild raspberry at 6.0 ppm; edible podded legume vegetable, subgroup 6A at 4.0 ppm; succulent shelled pea and bean, subgroup 6B at 0.3 ppm; and succulent shelled soybean at 0.3 ppm. That notice referenced a summary of the petition prepared by Chemtura Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified many of the proposed tolerance levels and/or commodity terms. The reasons for these changes are explained in Unit V.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for combined residues of bifenazate and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate), in or on acerola at 0.90 ppm; black sapote at 7.0

ppm; caneberry subgroup 13-07A at 5.0 ppm; canistel at 7.0 ppm; feijoa at 0.90 ppm; guava at 0.90 ppm; jaboticaba at 0.90 ppm; longan at 5.0 ppm; lychee at 5.0 ppm; sapote, mamey at 7.0 ppm; mango at 7.0 ppm; papaya at 7.0 ppm; passionfruit at 0.90 ppm; pea and bean, succulent shelled, subgroup 6B at 0.70 ppm; pulasan at 5.0 ppm; rambutan at 5.0 ppm; sapodilla at 7.0 ppm; soybean, succulent shelled at 0.70 ppm; Spanish lime at 5.0 ppm; star apple at 7.0 ppm; starfruit at 0.90 ppm; vegetable, legume, edible-podded, subgroup 6A at 6.0 ppm; and wax jambu at 0.90 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by bifenazate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document *''PP 6E7167; Bifenazate; (000586) Petition for Establishment of Tolerances for Uses on Caneberry ... and Acerola. HED Human-Health Risk Assessment.''* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as document number EPA–HQ–OPP–2007–0302–0004 in that docket.

The acute toxicity data for bifenazate indicate that it is not acutely toxic by the oral, inhalation or dermal routes of exposure. It is minimally irritating to the eye and slightly irritating to the skin. The dermal sensitization data for bifenazate are equivocal; bifenazate was shown to be a sensitizer using the Magnusson/Kligman method but was non-sensitizing using the Buehler method.

Subchronic and chronic studies in rats and dogs indicate that the liver and hematopoietic system (spleen and/or bone marrow with associated hematological findings) are the primary target organs of bifenazate in these species, with additional toxicity observed in the kidney (chronic dog) and adrenal gland (male rats). Similarly, the hematopoietic system (spleen) was the primary target organ in the repeat-dose dermal toxicity study. Also associated with this toxicity in several studies were decreased body weight, body-weight gain, and food consumption. No evidence of carcinogenicity was seen in the rat and mouse studies, and EPA has classified bifenazate as ''not likely'' to be a human carcinogen by any relevant route of exposure. A full battery of mutagenicity studies was negative for mutagenic or clastogenic activity. The developmental studies in rats and rabbits did not demonstrate increased sensitivity of fetuses to bifenazate. Similarly, increased qualitative or quantitative susceptibility of offspring was not observed with bifenazate during prenatal or postnatal development in the reproduction study. There was no evidence of neurotoxicity (clinical signs or neuropathology) in any of the toxicology studies conducted with bifenazate.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles, EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for bifenazate used for human risk assessment can be found at *http://www.regulations.gov* in document *''PP 6E7167; Bifenazate; (000586) Petition for Establishment of Tolerances for Uses on Caneberry ... and Acerola. HED Human-Health Risk Assessment''* at page 11 in docket ID number EPA–HQ–OPP–2007–0302.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to bifenazate, EPA considered exposure under the petitioned-for tolerances as well as all existing bifenazate tolerances in 40 CFR 180.572. EPA assessed dietary exposures from bifenazate in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effects were identified in the toxicological studies for bifenazate; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed that all commodities, except squash, peach, tomato and milk, contained tolerance-level residues. For squash, peach and tomato, EPA assumed residues were present at average field trial levels. For milk, the tolerance level was adjusted upward to account for all of the residues of concern for risk assessment. Default processing factors were assumed for all commodities except apple juice, grape juice, wine/sherry, tomato paste, and tomato puree. The processing factors for these commodities were based on data from processing studies. The chronic analysis also incorporated average percent crop treated (PCT) information for some registered commodities but assumed 100 PCT for all of the new uses.

iii. *Cancer*. No evidence of carcinogenicity was seen in the cancer studies performed with bifenazate on rats and mice, and EPA has classified bifenazate as ''not likely'' to be a human carcinogen by any relevant route of exposure. Therefore, a cancer exposure assessment was not conducted.

Bifenazate contains hydrazine as part of its chemical structure. This side chain is structurally similar to unsymmetrical dimethyl hydrazine (UDMH), a category B2 animal carcinogen and possible human carcinogen. However, EPA has concluded that formation of free biphenyl hydrazine or other hydrazines is unlikely based on the results of submitted metabolism studies. The rat, livestock, and plant metabolism studies indicate that metabolism of bifenazate proceeds via oxidation of the hydrazine moiety of bifenazate to form D3598 (diazene). The D3598 is then metabolized to D1989 (methoxy biphenyl) and to bound residues by reaction with natural products. A radish metabolism study which specifically monitored for the formation of biphenyl hydrazine found none. Based on the results of the metabolism studies, especially the absence of biphenyl hydrazine in the radish metabolism study or in the excreta of rats in the rat metabolism study, EPA concluded that the formation of free hydrazines is unlikely. This conclusion is further supported by the lack of carcinogenic effects in the bifenazate carcinogenicity studies.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) of FFDCA require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by section 408(b)(2)(E) of FFDCA and authorized under section 408(f)(1) of FFDCA. Data will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

a. The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue.

b. The exposure estimate does not underestimate exposure for any significant subpopulation group.

c. Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information in the chronic dietary exposure assessment as follows:

Almond 1%; apple 1%; apricot 1%; cucumber 1%; grape 5%; nectarine 5%; peach 10%; pear 10%; pecan 1%; pepper 1%; plum 5%; strawberry 25%; tomato 5%; walnut 1%; and watermelon 1%. 100 PCT was assumed for all new uses and the remaining currently registered uses.

EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available federal, state, and private market survey data for that use, averaging by year, averaging across all years, and rounding up to the nearest multiple of five percent except for those situations in which the average PCT is less than one. In those cases 1% is used as the average. In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), Proprietary Market Surveys, and the National Center for Food and Agriculture Policy (NCFAP) for the most recent 6 years.

The Agency believes that the three conditions listed in this unit have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which bifenazate may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for bifenazate in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of bifenazate. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of bifenazate for chronic exposures are estimated to be 6.38 ppb for surface water and <0.001 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the chronic dietary risk assessment, the water concentration of value 6.38 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bifenazate is currently registered for the following residential non-dietary sites: Ornamental plants, including bedding plants, flowering plants, foliage plants, bulb crops, perennials, trees, and shrubs. There is a potential for short-term dermal and inhalation exposure of homeowners applying bifenazate on these sites. However, post-application exposures of adults and children from this use are expected to be negligible. Therefore, EPA assessed only short-term dermal and inhalation residential handler exposures. Handler exposures were estimated assuming applications would be made using hose-end sprayers, since this application method may result in higher exposures than other application methods, such as pump sprayers or similar devices.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other

substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to bifenazate and any other substances and bifenazate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bifenazate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology database for bifenazate includes rat and rabbit developmental toxicity studies and a 2–generation reproduction toxicity study in rats. There was no quantitative or qualitative evidence of increased susceptibility of rats or rabbit fetuses to *in utero* exposure in the developmental studies, nor of rats following prenatal/postnatal exposure in the 2–generation reproduction study.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for bifenazate is complete.

ii. There is no indication that bifenazate is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that bifenazate results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The chronic dietary food exposure assessment utilizes tolerance level residues or, for a few commodities, anticipated residues that are based on reliable field trial data. For several currently registered commodities, the chronic assessment also utilizes PCT data that have a valid basis and are considered to be reliable. Conservative ground water and surface water modeling estimates were used. These assessments will not underestimate the exposure and risks posed by bifenazate.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. None of the toxicology studies available for bifenazate has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure; therefore, acute risk is not expected.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bifenazate from food and water will utilize 47% of the cPAD for children 1 to 2 years old, the population group with the greatest estimated exposure. Based on the use pattern, chronic residential exposure to residues of bifenazate is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bifenazate is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for bifenazate.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs of 3,900 for adults. The aggregate MOEs for adults take into consideration food and drinking water exposures as well as dermal and inhalation exposures of adults applying bifenazate to ornamentals in residential areas. Since residential exposure of infants and children is not expected, short-term aggregate risk for infants and children is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bifenazate is not registered for use on any sites that would result in intermediate-term residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which does not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Bifenazate has been classified as ''not likely'' to be a human carcinogen by any relevant route of exposure and is, therefore, not expected to pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to bifenazate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. High-performance liquid chromatography (HPLC) Method UCC-D2341 is available as a primary enforcement method for determination of the combined residues of bifenazate and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate), in/on crop matrices. The method has undergone a successful validation and has been forwarded to the Food and Drug Administration (FDA) for inclusion in the Pesticide Analytical Manual (PAM) Volume II. In addition, a method utilizing a liquid chromatographic system with tandem mass spectrometers (LC/MS/MS) was recently submitted as a confirmatory method (Method NCL ME 245) and has been forwarded to FDA. The methods may be requested from: Chief, Analytical Chemistry Branch,

Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no established Codex, Canadian, or Mexican maximum residue limits (MRLs) for bifenazate in/on the commodities associated with this tolerance petition.

V. Conclusion

IR-4 petitioned for a tolerance on caneberry subgroup 13A and a separate tolerance on wild raspberry, since wild raspberry was not included in the caneberry subgroup at the time of the petition. In the **Federal Register** of December 7, 2007 (72 FR 69150-69158) (FRL–8343–1), EPA issued a final rule that revised the crop grouping regulations. As part of this action, EPA expanded and revised berries group 13 and its subgroups. The caneberries subgroup was expanded to include wild raspberries and designated as caneberry subgroup 13-07A, but the representative commodities remained unchanged. EPA indicated in the December 7, 2007 final rule as well as the earlier May 23, 2007 proposed rule (72 FR 28920-28930) (FRL–8126–1) that, for existing petitions for which a Notice of Filing had been published, the Agency would attempt to conform these petitions to the rule. Because the representative commodities for subgroups 13A and 13-07A are the same and residue data on these commodities support inclusion of wild raspberry in the revised subgroup 13-07A, EPA is establishing a tolerance on caneberry subgroup 13-07A.

Based upon review of the data supporting PP 6E7167, EPA has also revised the proposed tolerance levels as follows: Increased the tolerance on papaya, star apple, black sapote, mango, sapodilla, canistel and sapote, mamey from 6.0 ppm to 7.0 ppm; increased the tolerance on lychee, longan, rambutan, Spanish lime and pulasan from 4.0 ppm to 5.0 ppm; decreased the tolerance on caneberry subgroup 13-07A from 6.0ppm to 5.0 ppm; increased the tolerance on vegetable, legume, edible-podded, subgroup 6A from 4.0 ppm to 6.0 ppm; and increased the tolerance on pea and bean, succulent shelled, subgroup 6B and soybean, succulent shelled from 4.0 ppm to 6.0 ppm . EPA revised these tolerance levels based on analyses of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data Standard Operating Procedure (SOP).

Therefore, the tolerances are established for combined residues of bifenazate, 1-methylethyl 2-(4-methoxy[1,1'-biphenyl]-3-yl) hydrazinecarboxylate and its metabolite, diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester] (expressed as bifenazate), in or on acerola at 0.90 ppm; black sapote at 7.0 ppm; caneberry subgroup 13-07A at 5.0 ppm; canistel at 7.0 ppm; feijoa at 0.90 ppm; guava at 0.90 ppm; jaboticaba at 0.90 ppm; longan at 5.0 ppm; lychee at 5.0 ppm; sapote, mamey at 7.0 ppm; mango at 7.0 ppm; papaya at 7.0 ppm; passionfruit at 0.90 ppm; pea and bean, succulent shelled, subgroup 6B at 0.70 ppm; pulasan at 5.0 ppm; rambutan at 5.0 ppm; sapodilla at 7.0 ppm; soybean, succulent shelled at 0.70 ppm; Spanish lime at 5.0 ppm; star apple at 7.0 ppm; starfruit at 0.90 ppm; vegetable, legume, edible-podded, subgroup 6A at 6.0 ppm; and wax jambu at 0.90 ppm.

Tolerances currently exist for combined residues of bifenazate and its metabolite in or on pea, edible podded, succulent at 4.0 ppm and pea, garden, succulent at 0.20 ppm. These tolerances are no longer needed, since residues on these commodities will be covered by the new, higher tolerances being established on the edible-podded legume subgroup 6A at 6.0 ppm and on succulent shelled pea and bean subgroup 6B at 0.70 ppm. Therefore, EPA is revoking these existing, redundant tolerances.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 22, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.572 is amended by removing the entries ''Pea, edible podded, succulent'' and ''Pea, garden, succulent'' in the table in paragraph (a)(1) and alphabetically adding the following commodities to read as follows:

§ 180.572 Bifenazate; tolerance for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Acerola	0.90
* * * * *	
Black sapote	7.0
Caneberry subgroup 13-07A	5.0
Canistel	7.0
* * * * *	
Feijoa	0.90
* * * * *	
Guave	0.90
* * * * *	
Jaboticaba	0.90
Longan	5.0
Lychee	5.0
Mango	7.0
* * * * *	
Papaya	7.0
Passionfruit	0.90
Pea and bean, succulent shelled, subgroup 6B	0.70
* * * * *	
Pulasan	5.0
Rambutan	5.0
Sapodilla	7.0
Sapote, mamey	7.0
* * * * *	
Soybean, succulent shelled	0.70
Spanish lime	5.0
* * * * *	
Star apple	7.0
Starfruit	0.90
* * * * *	
Vegetable, legume, edible-podded, subgroup 6A	6.0
* * * * *	
Wax jambu	0.90

* * * * *

[FR Doc. E8–4142 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 05–195; CC Docket No. 96–45; CC Docket No. 02–6; WC Docket No. 02–60; WC Docket No. 03–109; CC Docket No. 97–21; FCC 07–150]

Comprehensive Review of the Universal Service Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On August 29, 2007, the FCC released a *Report and Order*, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rule Health Care Support Mechanism; Lifeline and Link-up; and Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket No. 05–195; CC Docket No. 96–45; CC Docket No. 02–6; WC Docket No. 02–60; WC Docket No. 03–109; CC Docket No. 97–21; FCC 07–150. The information collection requirements in this *Report and Order* required approval from the Office of Management and Budget. This document announces the effective date of these information collection requirements.

DATES: The information collection requirements in amendments to §§ 54.202, 54.417, 54.619, and 54.706, published at 72 FR 54214, September 24, 2007, were approved by the Office of Management and Budget on January 23, 2008.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Senior Attorney, Office of the Managing Director, (202) 418–0384, TTY 1 (888) 835–5322.

SUPPLEMENTARY INFORMATION: The *Report and Order* stated that the Commission would publish a notice announcing the effective date of the information collection requirements. On January 23, 2008, OMB approved the information collection requirements contained in this *Report and Order* pursuant to OMB Control Number: 3060–1112, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight. Accordingly, the information collection requirements contained in the *Report and Order* became effective on January 23, 2008. The expiration date for the information collection is January 31, 2011.

The Commission also published a separate Notice in the **Federal Register** on January 31, 2008 (73 FR 5843) in which the PRA various burden estimates for this information collection, 3060–1112, Comprehensive Review of the Universal Service Fund Management, which OMB has approved, were listed.

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning this information collection, 3060–1112, should be directed to Leslie F. Smith, Federal Communications Commission, and (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4047 Filed 3–4–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 080228330–8334–01]

RIN 0648–XF96

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,238 nm^2 (4,246 km^2), east of Chatham, Massachusetts for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours March 7, 2008, through 2400 hours March 21, 2008.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (257 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (3.43 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On February 25, 2008, an aerial survey reported an aggregation of six right whales in the proximity of 41° 40′ N. latitude and 69° 39′ W. long. The position lies approximately 15 nm east of Chatham, Massachusetts. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

42° 02′ N., 69° 24′ W. (NW Corner)
42° 02′ N., 69° 11′ W.
41° 19′ N., 69° 11′ W.
41° 19′ N., 69° 59′ W., then follow the northern Nantucket coastline westward to
41° 19′ N., 70° 04′ W.
41° 19′ N., 70° 09′ W.
41° 39′ N., 70° 09′ W., then follow the Cape Cod coastline eastward to
41° 45′ N., 69° 56′ W.
41° 45′ N., 69° 33′ W.
41° 49′ N., 69° 24′ W.
42° 02′ N., 69° 24′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: a portion of this DAM zone overlaps the Northeast Multispecies year-round Closed Area I found at 50 CFR 648.81(f)(a), and the Northeast Multispecies seasonal Gulf of Maine Rolling Closure Area I for found at 50 CFR 648.81(f)(i). Due to these closures, sink gillnet gear is prohibited from these portions of the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within portions of Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. The breaking strength of each net panel weak link must not exceed 1,100 lb (498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours March 7, 2008, through 2400 hours March 16, 2008, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM

program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: February 28, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 08–952 Filed 2–29–08; 12:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XG00

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2008 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 29, 2008, until 1200 hrs, A.l.t., September 1, 2008.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allocation of the 2008 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA is 10,502 metric tons (mt) as established by the 2008 and 2009 harvest specifications for groundfish of the GOA (73 FR 10562, February 27, 2008).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2008 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,302 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 27, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: February 28, 2008.

James P. Burgess,

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

[FR Doc. 08–951 Filed 2–29–08; 12:35 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 44
Wednesday, March 5, 2008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0249; Directorate Identifier 2008–CE–012–AD]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTFAHRT GmbH Models 228–200, 228–201, 228–202, and 228–212 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for products listed above. This proposed 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:

> During production testing of a batch of control cables, cracks inside the cable terminal were detected. Despite the specified strength at the date of delivery was achieved, it can not be excluded that the mechanical properties of the cable will degrade.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 4, 2008.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4146; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0249; Directorate Identifier 2008–CE–012–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environment, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Luftfahrt-Bundesamt (LBA), which is the aviation authority for Germany, has issued AD No. D–2007–353, dated December 28, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During production testing of a batch of control cables, cracks inside the cable terminal were detected. Despite the specified strength at the date of delivery was achieved, it can not be excluded that the mechanical properties of the cable will degrade.

This proposed AD would require you to replace rudder control cables, part number (P/N) B–422420A00F delivered with European Aviation Safety Agency (EASA) Form One tracking number RS52074/05 after January 1, 2006 (also identified by production batch number 1141044, which is printed on the fork end next to the P/N), with FAA-approved serviceable rudder control cables.

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

Relevant Service Information

RUAG Aerospace Defence Technology has issued Dornier 228 Alert Service Bulletin No. ASB–228–269, dated March 23, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed 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 proposed 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 proposed AD.

Costs of Compliance

We estimate that this proposed AD would affect about 17 products of U.S. registry. We also estimate that it would take about 15 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $20,400 or $1,200 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

DORNIER LUFTFAHRT GmbH: Docket No. FAA–2008–0249; Directorate Identifier 2008–CE–012–AD.

Comments Due Date

(a) We must receive comments by April 4, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models 228–200, 228–201, 228–202, and 228–212, all serial numbers that are:

(1) Equipped with rudder control cables, part number (P/N) B–422420A00F delivered with European Aviation Safety Agency (EASA) Form One tracking number RS52074/05 after January 1, 2006 (also identified by production batch number 1141044, which is printed on the fork end next to the P/N); and

(2) certificated in any category.

Subject

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

Reason

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

During production testing of a batch of control cables, cracks inside the cable terminal were detected. Despite the specified strength oat the date of delivery was achieved, it can not be excluded that the mechanical properties of the cable will degrade.

This AD requires you to replace rudder control cables, P/N B–422420A00F delivered with EASA Form One tracking number RS52074/05 after January 1, 2006 (also identified by production batch number 1141044, which is printed on the fork end next to the P/N), with FAA-approved serviceable rudder control cables.

Actions and Compliance

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

(1) Replace the rudder control cables identified in paragraph (c)(1) of this AD with FAA-approved serviceable rudder control cables following RUAG Aerospace Defence Technology Dornier 228 Alert Service Bulletin No. ASB–228–269, dated March 23, 2007, at whichever of the follow occurs first:

(i) Upon reaching 1,200 total hours time-in-service (TIS) on the rudder control cables identified in paragraph (c)(1) of this AD or within 30 days after the effective date of this AD, whichever occurs later; or

(ii) Within the next 3 months after the effective date of this AD.

(2) As of the effective date of this AD, do not install any rudder control cables, P/N B–422420A00F delivered with EASA Form One tracking number RS52074/05 after January 1, 2006 (also identified by production batch number 1141044, which is printed on the fork end next to the P/N).

(3) Within 30 days after doing the replacement required in paragraph (f)(1) of this AD, return the removed rudder control cables and any held as spares to the manufacturer at the address on RUAG Aerospace Defense Technology Dornier 228 Alert Service Bulletin No. ASB–228–269, dated March 23, 2007.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, 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:* Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Luftfahrt-Bundesamt (LBA) AD No. D–2007–353, dated December 28, 2007, and RUAG Aerospace Defence Technology Dornier 228 Alert Service Bulletin No. ASB–228–269, dated March 23, 2007, for related information.

Issued in Kansas City, Missouri, on February 26, 2008.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 08–929 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234, 253, 259, and 399

[Docket No. DOT–OST–2007–0022]

RIN No. 2105–AD72

Enhancing Airline Passenger Protections

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

ACTION: Clarification Concerning Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: On November 20, 2007, the Department of Transportation (DOT or Department) published an Advance Notice of Proposed Rulemaking (ANPRM), 72 FR 65233 seeking comments on whether the Department should adopt a rule to enhance airline passenger protections in the following ways: Require carriers to adopt contingency plans for lengthy tarmac delays and incorporate them in their contracts of carriage, require carriers to respond to consumer problems, deem operating a chronically delayed flight to be unfair and deceptive, require carriers to publish delay data, require carriers to publish complaint data, require on-time performance reporting for international flights, and require carriers to audit their compliance with their customer service plans.

In a section of the ANPRM entitled ''Regulatory Notices'' the Department addressed a number of general regulatory issues as they relate to the ANPRM, including DOT Regulatory Policies and Procedures, Federalism, the Regulatory Flexibility Act and the Paperwork Reduction Act. In its discussion of Executive Order 13132 (''Federalism''), which sets forth certain requirements for Federal agencies when they are ''taking action that preempts State law,'' the ANPRM concluded that it ''does not propose any regulation that * * * preempts State law.'' Based upon comments DOT has received, and upon its own further review, the Department has determined that this statement has been misconstrued in the overall context of the proposed DOT regulation and its impact upon State law. This notice clarifies the Department's prior statement concerning preemption in this area.

DATES: Comments on the ANPRM were due to be filed on or before January 22, 2008. The Department is currently reviewing comments that it has received. The Department will further address this issue in any Notice of Proposed Rulemaking subsequently issued by the Department in this docket.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Betsy L. Wolf or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *betsy.wolf@dot.gov* or *blane.workie@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION: The Department's ANPRM sought comment on a variety of DOT proposals, including:

(1) Amending 14 CFR part 253 to require any certificated or commuter air carrier that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to develop a contingency plan for long ground delays on the tarmac for all of its flights (including those that use aircraft with 30 or fewer seats) and to incorporate this plan in its contract of carriage;

(2) Adopting a new regulation, 14 CFR Part 259, that among other things would require every certificated and commuter carrier that operates domestic scheduled passenger service using any aircraft with more than 30 passenger seats to respond to mounting consumer problems in a number of specific ways;

(3) Amending 14 CFR 399.81 so that it sets forth the Department's enforcement posture on chronically delayed flights;

(4) Amending 14 CFR 234.11 to require airlines that report on-time performance to the Department pursuant to 14 CFR part 234 (*i.e.*, certificated U.S. carriers that account for at least 1% of the domestic scheduled passenger revenue) and online reservation services to include on their Web sites, at a point before the passenger selects a flight for purchase, specific information for each listed flight about its performance during the previous month;

(5) Adopting a new regulation, 14 CFR Part 259, that would also require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to publish complaint data on their Web sites;

(6) Amending 14 CFR 234.4 and 234.11 to require carriers that report on-time performance to the Department pursuant to 14 CFR Part 234 (*i.e.*, certificated U.S. carriers that account for at least 1% of the domestic scheduled passenger revenue) and the largest foreign carriers to report on-time performance for international flights to and from the United States; and

(7) Adopting a new regulation that would require certificated and commuter carriers that operate domestic scheduled passenger service using any aircraft with more than 30 passenger seats to audit their adherence to their own customer service plans.

Detailed discussions concerning each of these proposals are set forth in the November 20, 2007 ANPRM.

In the ''Regulatory Notices'' section of the ANPRM the Department addressed a number of regulatory issues. Matters relating to Executive Order 13132 were addressed as follows:

> This Advance Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). *This notice does not propose any regulation that* (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) *preempts State law.* Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

72 FR 65236 (emphasis supplied). After further review, including initial review of comments submitted to the Department in response to the ANPRM, the Department has concluded that our prior statement addressing preemption of State regulations concerning air carrier operations has been misconstrued.

Executive Order 13132 sets forth certain requirements for Federal agencies when they are ''taking action that preempts State law.'' Promulgation of a Final Rule incorporating the Department's proposals on enhancing airline passenger protections as set forth in the ANPRM, or other proposals addressing the matters giving rise to the ANPRM, would not ''tak[e] action that preempts State law'' because such State or local laws are already preempted under the Airline Deregulation Act (ADA), which provides at 49 U.S.C. 41713(b)(4)(A), that ''a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier.'' The Supreme Court has consistently interpreted the ADA broadly so as to preclude any regulation of airline services other than by the Federal government. *See Morales*

v. *Trans World Airlines, Inc.,* 504 U.S. 374, 378 (1992); *American Airlines, Inc.* v. *Wolens,* 5113 U.S. 219 (1995). This broad view has most recently been re-affirmed in *Rowe* v. *New Hampshire Motor Transport Assoc.,* __S. Ct. __, 2008 WL 440686, U.S., February 20, 2008 (No. 06–457).

For the foregoing reason, any State or local rules addressing, or related to, the services offered by air carriers are already preempted under the ADA. In addition, if the proposed rule addressed in the ANPRM is finalized, it is likely that the final rule would also separately preempt any such State or local regulations under other provisions of law. We need not further address any other grounds for preemption, particularly at the ANPRM stage, since, as explained above, States and localities are already precluded from regulating in this area.

Issued this 3rd day of March, 2008, at Washington, DC.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 08–969 Filed 3–3–08; 11:13 pm]

BILLING CODE 4910–9X–P

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Notice of Intent to Request Public Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its ongoing systematic review of all Federal Trade Commission rules and guides, the Commission gives notice that, during 2008, it intends to request public comments on the rules and guide listed below. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the rules and guide; possible conflict between the rules and guide and state, local, or other federal laws or regulations; and the effect on the rules and guide of any technological, economic, or other industry changes. No Commission determination on the need for, or the substance of, the rules and guide should be inferred from the notice of intent to publish requests for comments. In addition, the Commission announces a revised 10-year regulatory review schedule.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the contact person listed for the particular rule or guide.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of and solicit public comments on the following rules and guide during 2008:

(1) *Guides for the Use of Environmental Marketing Claims*, 16 CFR 260. **Agency Contact:** Janice Podoll Frankle, (202) 326-3022, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

(2) *Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations*, 16 CFR 429. **Agency Contact:** Barbara Bolton, (404) 656-1362, Federal Trade Commission, Southeast Region, 225 Peachtree Street, NE, Suite 1500, Atlanta, GA 30303.

(3) *Power Output Claims for Amplifiers Utilized in Home Entertainment Products*, 16 CFR 432. **Agency Contact:** Jock Chung, (202) 326-2984, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

As part of its ongoing program to review all current Commission rules and guides, the Commission also has tentatively scheduled reviews of additional rules and guides for 2009 through 2018. A copy of this tentative schedule is appended. The Commission, in its discretion, may modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark,

Secretary.

APPENDIX

REGULATORY REVIEW
MODIFIED TEN-YEAR SCHEDULE

16 CFR PART	TOPIC	YEAR TO REVIEW
254	Guides for Private Vocational and Distance Education Schools	2009
300	Rules and Regulations under the Wool Products Labeling Act	2009
301	Rules and Regulations under the Fur Products Labeling Act	2009
303	Rules and Regulations under the Textile Fiber Products Identification Act	2009
306	Automotive Fuel Ratings, Certification and Posting Rule	2009
425	Rule Concerning the Use of Negative Option Plans	2009
500	Regulations Under Section 4 of the Fair Packaging and Labeling Act (FPLA)	2010
501	Exemptions from Part 500 of the FPLA	2010
502	Regulations Under Section 5(C) of the FPLA	2010
503	Statements of General Policy or Interpretations Under the FPLA	2010
424	Retail Food Store Advertising and Marketing Practices Rule	2010
444	Credit Practices Rule	2010
239	Guides for the Advertising of Warranties and Guarantees	2010
433	Preservation of Consumers' Claims and Defenses Rule	2010
700	Interpretations of Magnuson-Moss Warranty Act	2010
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	2010
702	Pre-sale Availability of Written Warranty Terms	2010
703	Informal Dispute Settlement Procedures	2010
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2011
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	2011
423	Care Labeling Rule	2011
20	Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry	2012
233	Guides Against Deceptive Pricing	2012
238	Guides Against Bait Advertising	2012

APPENDIX—Continued
REGULATORY REVIEW
MODIFIED TEN-YEAR SCHEDULE

16 CFR PART	TOPIC	YEAR TO REVIEW
240	Guides for Advertising Allowances and Other Merchandising Payments and Services	2012
251	Guide Concerning Use of the Word ''Free'' and Similar Representations	2012
310	Telemarketing Sales Rule	2013
801	Hart-Scott-Rodino Antitrust Improvements Act Coverage Rules	2013
802	Hart-Scott-Rodino Antitrust Improvements Act Exemption Rules	2013
803	Hart-Scott-Rodino Antitrust Improvements Act Transmittal Rules	2013
304	Rules and Regulations under the Hobby Protection Act	2014
309	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles	2014
314	Standards for Safeguarding Customer Information	2014
315	Contact Lens Rule	2015
316	Rules Implementing the CAN-SPAM Act of 2003	2015
456	Ophthalmic Practice Rules	2015
603	Fair Credit Reporting Act (FCRA) Rules - Definitions	2015
610	FCRA Rules - Free Annual File Disclosures	2015
611	FCRA Rules - Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency	2015
613	FCRA Rules - Duration of Active Duty Alerts	2015
614	FCRA Rules - Appropriate Proof of Identity	2015
698	FCRA Rules - Summaries, Notices, and Forms	2015
460	Labeling and Advertising of Home Insulation	2016
682	FCRA Rules - Disposal of Consumer Report Information and Records	2016
410	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets	2017
312	Children's Online Privacy Protection Rule	2017
18	Guides for the Nursery Industry	2018
305	Appliance Labeling Rule	2018
311	Test Procedures and Labeling Standards for Recycled Oil	2018
436	Disclosure Requirements and Prohibitions Concerning Franchising	2018

[FR Doc. E8–4195 Filed 3–4–08: 8:45 am]
BILLING CODE: 6750–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1188; FRL–8537–5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Stationary Generator Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision contains provisions to control emissions from stationary generators. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 4, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1188 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–1188, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–1188. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2007, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a SIP revision for Regulation No. 1144—Control of Stationary Generator Emissions. The SIP revision applies to new, existing, emergency, and distributed stationary generators.

II. Summary of SIP Revision

Regulation No. 1144 will impact any owner of a stationary generator, except the owner of any of the following: mobile generator; residential generator for emergency power use only; certain generators whose emissions are already controlled; or generators with a standby power rating of 10 kilowatts or less. Regulation No. 1144 establishes operating requirements, fuel sulfur content limits, and recordkeeping requirements for stationary generators. The regulation will also require stationary generators which operate at times other than during emergencies for testing or for maintenance to meet certain emission standards to reduce their emissions.

III. Proposed Action

EPA is proposing to approve the Delaware SIP revision for Regulation No. 1144—Control of Stationary Generator Emissions submitted on November 1, 2007. This regulation will help ensure that the air emissions from new and existing stationary generators do not cause or contribute to the existing air quality problems with regard to ground-level ozone and fine particulate matter, thereby adversely impacting public health, safety and welfare. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (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.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule pertaining to Delaware's control of stationary generator emissions, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 25, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–4256 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2008–0005; FRL–8537–8]

Approval and Promulgation of Implementation Plans; Motor Vehicle Emissions Budgets; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This revision updates the direct $PM_{2.5}$ and NO_X motor vehicle emissions budgets for Mercer County, located within the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, $PM_{2.5}$ nonattainment area. The intended effect of this rulemaking is to approve budgets that will be used to determine transportation conformity.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–

OAR–2008–0005, by one of the following methods:

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

E-mail: Werner.Raymond@epa.gov.

Fax: 212–637–3901.

Mail: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Hand Delivery: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2008–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information 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 *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Matthew Laurita, *laurita.matthew@epa.gov* at the U.S. Environmental Protection Agency, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, telephone number (212) 637–3895, fax number (212) 637–3901.

SUPPLEMENTARY INFORMATION: This action is being proposed under a procedure called parallel processing. Under parallel processing, EPA proposes action on a state submission before it has been formally adopted and submitted to EPA, and then takes final action if: (1) The state's final submission is substantially unchanged from the submission on which this proposal is based, or (2) if significant changes in the state's final submission are anticipated and adequately described in EPA's proposal as a basis for EPA's proposed action.

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I. Analysis of the State's Submittal
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I. Analysis of the State's Submittal

On December 17, 2007, New Jersey submitted a state implementation plan (SIP) revision to EPA updating the existing motor vehicle emissions budgets (MVEBs) for the Mercer County, New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, $PM_{2.5}$ nonattainment area. MVEBs represent a cap that projected emissions from existing and planned highway and transit projects may not exceed. The emissions from transportation projects are evaluated through a metropolitan planning organization's (MPO's) process for determining the long-range transportation needs of a region, and its process for scheduling projects to be completed in the short term.

New Jersey is revising the budgets for Mercer County to incorporate new planning assumptions. Since the original $PM_{2.5}$ MVEBs were approved by EPA (71 FR 38770, July 10, 2006), New Jersey discovered an error that underestimated the fraction of all vehicle miles traveled attributable to the heaviest category of heavy-duty trucks. The MPO responsible for transportation planning in Mercer County, the Delaware Valley Regional Planning Commission (DVRPC), is required to incorporate this updated assumption in its emissions modeling process. Approval of the revised MVEB will ensure consistency between the budget and DVRPC's planning process.

EPA allows for the establishment of MVEBs for $PM_{2.5}$ prior to a state submitting its first required $PM_{2.5}$ SIP (69 FR 40004, July 1, 2004, specifically see 69 FR 40028). These budgets are set through the establishment of an early SIP, which meets all the requirements of a SIP submittal, in which emissions from all sources, when projected from the base to a future year, show some progress toward attainment. EPA has interpreted the phrase ''some progress toward attainment'' to mean a 5% to 10% reduction in emissions from all sources (see 69 FR 40019). In New Jersey's original early progress SIP, the State demonstrated an overall 6.5% reduction in direct $PM_{2.5}$ and 32.3% reduction in NO_X, a $PM_{2.5}$ precursor, from 2002 to 2009 within the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT $PM_{2.5}$ nonattainment area. Using the new assumptions, the State has shown reductions of 6.3% and 32.0% from 2002 to 2009 for direct $PM_{2.5}$ and NO_X, respectively; therefore, EPA has determined that the revised MVEBs still satisfy the early progress requirements and are approvable. Once approved, the revised MVEBs will supersede the existing $PM_{2.5}$ MVEBs for Mercer County, New Jersey (Table 1).

TABLE 1.—EXISTING AND PROPOSED 2009 $PM_{2.5}$ MOTOR VEHICLE EMISSIONS BUDGETS FOR MERCER COUNTY, NEW JERSEY

[Tons per year]

Pollutant	Direct $PM_{2.5}$	NO_X
Existing	89	4,328
Proposed	108	5,056

II. Proposed EPA Action

EPA is proposing to approve revisions to the $PM_{2.5}$ motor vehicle emissions budgets for Mercer County, New Jersey.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 25, 2008.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E8–4233 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 158 and 161

[EPA–HQ–OPP–2008–0010; FRL–8348–5]

RIN 2070–AD30

Data Requirements for Antimicrobial Pesticides and Revisions to Product Chemistry Data Requirements for Conventional Pesticides; Notification to the Secretaries of Agriculture and Health and Human Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretaries of Agriculture and Health and Human Services.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretaries of Agriculture, and Health and Human Services a draft proposed rule under sections 21 and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As described in the Agency's semi-annual Regulatory Agenda, the draft proposed rule updates the data requirements in 40 CFR part 158 for the registration of antimicrobial pesticide products. Besides providing the regulated community with clearer and more transparent information, once finalized the data requirements will enhance the development of health and environmental data to conduct scientifically sound chemical/hazard risk assessments to protect human health and the environment.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0010. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: 703.305.6304; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to the United States Department of Agriculture (USDA) and Department of Health and Human Services. It does not otherwise affect any specific entities. This action may, however, be of particular interest to a producer or

registrant of an antimicrobial pesticide product. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any draft proposed rule at least 60 days before signing it for publication in the **Federal Register**. Similarly, section 21(b) of FIFRA requires the Administrator to provide the Secretary of Health and Human Services with a copy of any draft proposed rule pertaining to a public health pesticide at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If either Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include in the proposed rule when published in the **Federal Register** the comments of the Secretary and the Administrator's response to those comments. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30–day period.

III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a proposed rule, it is merely a notification of submission to the Secretaries of Agriculture and Health and Human Services. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in Parts 158 and 161

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: February 25, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E8–4144 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 080110038–8248–01]

RIN 0648–XF03

Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90–day Finding for a Petition to Reclassify the Loggerhead Turtle in the Western North Atlantic Ocean

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

ACTION: 90–day petition finding; request for information and comments.

SUMMARY: We, NMFS, announce the 90–day finding for a petition to reclassify loggerhead turtles (*Caretta caretta*) in the western North Atlantic Ocean as a Distinct Population Segment (DPS) with endangered status and designate critical habitat under the Endangered Species Act of 1973, as amended (ESA). The loggerhead is currently listed as threatened throughout its range. We find that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

We have initiated a review of the status of the species to determine whether the petitioned action is warranted and to determine whether any additional changes to the current listing of the loggerhead turtle are warranted. To ensure a comprehensive review, we solicit information and comments pertaining to this species from any interested party.

DATES: Written comments and information related to this petition finding must be received [see **ADDRESSES**] by May 5, 2008.

ADDRESSES: You may submit comments, identified by ''0648–XF03'', by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*.
- Fax: 978–281–9394, Attention: Barbara Schroeder
- Mail: Information on paper, disk, or CD-ROM should be addressed to the Director of the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Barbara Schroeder by phone 301–713–2322, fax 301–427–2522, or e-mail *barbara.schroeder@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires us to make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Our implementing regulations (50 CFR 424.14) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists, we take into account several factors, including information submitted with, and referenced in, the petition and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find that a petition presents substantial information indicating that the requested action may be warranted, we are also required to conduct a status review of the species. The determination of whether the petitioned action is warranted must be made within 1 year of the receipt of the petition.

Analysis of Petition

On November 16, 2007, we received a petition from Oceana and the Center for Biological Diversity requesting that loggerhead turtles in the western North Atlantic Ocean be reclassified as a DPS (see *Petition Finding* section below for discussion on Distinct Population

Segments) with endangered status and that critical habitat be designated.

The petition contains a detailed description of the species' natural history and status, including information on distribution and movements, population structure, behavior, population status and trends, and factors contributing to the current status of the species in the western North Atlantic Ocean. The petitioners assert that the western North Atlantic loggerhead is discrete from loggerhead populations found elsewhere due to physical, genetic, physiological, ecological, and behavioral factors, and they provide information they believe supports this assertion. The petitioners further assert that the western North Atlantic loggerhead population is both biologically and ecologically significant relative to the species. The petitioners maintain that the western North Atlantic loggerhead nesting population has undergone a marked decline in recent decades, and cite coastal development, bycatch in fisheries, marine pollution, and global warming as primary threats to the population. The petitioners provide information on the western North Atlantic loggerhead relative to the ESA section 4(a)(1) factors and assert that the western North Atlantic loggerhead population warrants an endangered listing.

Finally, the petitioners request that, if the western North Atlantic loggerhead is not determined to meet the DPS criteria, loggerheads throughout the Atlantic Ocean be designated as a DPS and listed as endangered.

Petition Finding

Based on the above information and criteria specified in 50 CFR 424.14(b)(2), we find the petitioners present substantial scientific and commercial information indicating that a reclassification of the loggerhead in the western North Atlantic Ocean as a DPS and listing of that DPS as endangered may be warranted. The ESA defines a ''species'' as ''...any subspecies of fish or wildlife or plants and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' NMFS and the U.S. Fish and Wildlife Service (the Services) published a joint policy defining the phrase ''distinct population segment'' on February 7, 1996 (61 FR 4722). Two elements are considered in a decision on whether a population segment qualifies as a DPS under the ESA: discreteness of the population segment in relation to the remainder of the species and significance of the population segment to the species. If a population segment qualifies as a DPS, the conservation status of that DPS is evaluated to determine whether it is threatened or endangered. Under section 4(b)(3) of the ESA, an affirmative 90–day finding requires that we commence a status review on the loggerhead turtle. The Services recently completed a 5–year review of the loggerhead turtle, as required under section 4(c)(2) of the ESA (NMFS and U.S. Fish and Wildlife Service, 2007). This review recommended that a full status review of the loggerhead be conducted in accordance with the DPS policy. We have initiated this review, and, once it has been completed, we will make a finding on whether reclassification of the loggerhead in the western North Atlantic Ocean as endangered is warranted, warranted but precluded by higher priority listing actions, or not warranted, as required by section 4(b)(3)(B) of the ESA. The review will also consider whether any additional changes to the current globally threatened listing for the loggerhead are warranted.

There is no critical habitat designated for the loggerhead turtle. The ESA currently requires us to make a critical habitat determination concurrent with listing determinations. The ESA defines ''critical habitat'' as

> ''...the specific areas within the geographical area occupied by the species, at the time it is listed... on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and... specific areas outside the geographical area occupied by the species at the time it is listed... upon a determination by the Secretary that such areas are essential for the conservation of the species.''

Section 4(a)(1) Factors and Basis for Determination

Under section 4(a)(1) of the ESA and the implementing regulations at 50 CFR 424.11(c), a species shall be reclassified if the Secretary of Commerce or the Secretary of the Interior, as appropriate, determines, based on the best scientific and commercial data available after conducting a review of the species' status, that the species is threatened or endangered because of any of the following factors: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

Information Solicited

To ensure that the status review is complete and based on the best available data, we solicit information and comments on whether loggerhead turtles in the western North Atlantic Ocean, or any other area, qualify as a DPS and, if so, whether it should be classified as threatened or endangered. Specifically, we are soliciting information in the following areas relative to loggerheads in the western North Atlantic and elsewhere: (1) Historical and current population status and trends; (2) historical and current distribution; (3) migratory movements and behavior; (4) genetic population structure; (5) current or planned activities that may adversely impact loggerheads; and (6) ongoing efforts to protect loggerheads.

We also request information on areas within U.S. jurisdiction that may qualify as critical habitat for loggerhead turtles, both in the western North Atlantic Ocean and elsewhere within the species' range. Areas that include the physical and biological features essential to the conservation of the species that may require special management considerations or protection should be identified. Areas outside the present range should also be identified if such areas are essential to the conservation of the species. Essential features include, but are not limited to: (1) space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

We request that all data, information, and comments be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. All submissions should contain the submitter's name, address, and any association, institution, or business that the person represents. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**).

Peer Review

For listings, delistings, and reclassifications under the ESA, the Services issued a joint policy for peer review of the scientific data (59 FR 34270, July 1, 1994). On January 14,

2005, the Office of Management and Budget (OMB) published its Final Information Quality Bulletin for Peer Review (70 FR 2664). The intent of the peer review policy and the OMB Information Quality Bulletin for Peer Review is to ensure that listings are based on the best scientific and commercial data available. We are soliciting the names of recognized experts in the field that could serve as peer reviewers for the loggerhead status review. Independent peer reviewers will be selected from the academic and scientific community, applicable tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

National Marine Fisheries Service and U.S. Fish and Wildlife Service. 2007. Loggerhead sea turtles (*Caretta caretta*) 5–year review: summary and evaluation. 65 pp.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 28, 2008.

Samuel D. Rauch, III,

Deputy Assistant Secretary for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8–4231 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070717351–7373–01]

RIN 0648–AV64

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to modify both the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program for the fixed-gear commercial Pacific halibut and sablefish fisheries. This action would amend current regulations to remove a prohibition against the use of longline pot fishing gear in the Bering Sea sablefish IFQ and sablefish CDQ fisheries in the month of June. This action also would add regulatory provisions to allow members of the National Guard and military reserves who are mobilized to active duty to temporarily transfer their annual halibut and sablefish IFQ to other eligible IFQ recipients. This action is necessary to increase the efficiency of fishermen operating longline pot vessels in the Bering Sea sablefish fishery and to allow guardsmen and reservists to accrue some economic benefit from their annual IFQ if unable to harvest it due to military service. This proposed action is intended to promote the conservation and management provisions in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and the Northern Pacific Halibut Act of 1982 (Halibut Act).

DATES: Comments must be received no later than April 4, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by ''RIN 0648–AV64'' by any of the following methods:

- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907–586–7557.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change.

NMFS will accept anonymous comments. Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) file formats to be accepted.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the North Pacific Fishery Management Council (Council) at 605 West 4th, Suite 306, Anchorage, Alaska 99501–2252, 907–271–2809, or the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address, and by e-mail to *David__Rostker@omb.eop.gov* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228 or *obren.davis@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) in the Exclusive Economic Zone (EEZ) under the BSAI FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act) and is implemented by regulations at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. NMFS manages fishing for sablefish (*Anoplopoma fimbria*) through regulations established under the authority of the Magnuson-Stevens Act. Sablefish is managed as a groundfish species under the FMP, as well as under the IFQ Program (described below) that allocates sablefish and Pacific halibut (*Hippoglossus stenolepis*) harvesting privileges among U.S. fishermen.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Halibut Act. The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by these two officials, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62 (72 FR 11792; March 14, 2007). Federal regulations governing the halibut fisheries in the BSAI management area appear at 50 CFR parts 300 and 679.

Background and Need for Action

A. The IFQ Program

The Council, under the authority of the Halibut Act (with respect to Pacific halibut) and the Magnuson-Stevens Act (with respect to sablefish), adopted the IFQ Program in 1991. The Halibut and Sablefish IFQ Program established a limited access system for managing the fixed gear Pacific halibut fishery in Convention waters in and off Alaska and sablefish fisheries in waters of the EEZ, located between 3 and 200 miles off Alaska. The IFQ Program was approved by NMFS in January 1993, and promulgated in Federal regulation on November 9, 1993 (58 FR 59375). Fishing under the Halibut and Sablefish

IFQ Program began on March 15, 1995, ending the open access fisheries which preceded its implementation. Regulations implementing the Halibut and Sablefish IFQ Program are at 50 CFR part 679.

The Halibut and Sablefish IFQ Program was developed to reduce fishing capacity that had increased during years of management as an open access fishery, while maintaining the social and economic character of the fixed gear fisheries that coastal communities in Alaska rely on as a source of revenue. The Council and the Secretary concluded that the Halibut and Sablefish IFQ Program would provide economic stability for the commercial hook-and-line fishery while reducing many of the conservation and management problems commonly associated with open access fisheries. The proposed rule for the IFQ Program (57 FR 57130; December 3, 1992) describes, in detail, the background leading to the Council's adoption of the Halibut and Sablefish IFQ Program.

The Council and NMFS also intended the IFQ Program to improve the long-term productivity of the sablefish and halibut fisheries by further promoting the conservation and management objectives of the Magnuson-Stevens Act and the Halibut Act while retaining the character and distribution of the fishing fleets as much as possible. The IFQ Program includes several provisions, such as ownership caps and vessel use caps, that are intended to protect small producers, part-time participants, and entry-level participants that otherwise could be adversely affected by excessive consolidation. The IFQ Program also includes other restrictions intended to prevent the halibut and sablefish fisheries from being dominated by large boats or by any particular vessel class. These and other types of requirements were designed to maintain predominantly owner-operated fisheries, which was a key characteristic of the halibut and sablefish fisheries prior to the implementation of the IFQ Program.

Under the IFQ Program, quota share (QS) represents a harvesting privilege for a person. On an annual basis, QS holders are authorized to harvest a specified poundage which is issued by NMFS as IFQ. The specific amount of IFQ held by a person is determined by the number of QS units held, the total number of QS units issued in a specific regulatory area, and the total pounds of sablefish or halibut allocated for the IFQ fisheries in a particular year. Fishermen may harvest the IFQ over the entire fishing season, which in 2007 was March 10 through November 15 for halibut (72 FR 11792; March 14, 2007) and sablefish (72 FR 9676; March 5, 2007). Generally, an IFQ permit holder must be onboard a vessel at the time his or her IFQ is fished. He or she also must comply with IFQ landing report requirements at § 679.5(l)(2).

IFQ regulations also restrict the type of QS and IFQ transfers that may occur, including restrictions against the transfer of most types of QS if the QS is subject to a lease or condition of repossession or resale by the person transferring the QS. This effectively precludes temporary transfers of QS and IFQ between parties. QS is categorized by vessel size and type. IFQ derived from QS associated with processing vessels (vessel category A) may be temporarily transferred or leased, while much of the IFQ derived from QS associated with catcher vessels (vessel categories B, C, and D) may not be temporarily transferred or leased, with limited exception.

The requirements that catcher vessel QS holders be onboard a vessel while conducting IFQ fishing operations and present during an IFQ landing, as well as the restrictions against temporary transfers of IFQ, are conditionally excepted by other IFQ Program regulations.

There are three exceptions to the general IFQ transfer restrictions at § 679.41. Emergency waivers to IFQ landing requirements are allowed in limited situations (i.e., emergency medical situations that occur at sea) and only allow the IFQ associated with a particular permit to be temporarily fished, and an IFQ landing made, by someone other than the permit holder or IFQ hired master (see § 679.42(d)(1)). Secondly, halibut and sablefish QS holders may request medical transfers of their IFQ (see § 679.42(d)(2)) in the event of a medical conditions affecting a QS holder or immediate family member. Finally, a surviving spouse or beneficiary of a deceased QS holder may transfer the associated IFQ for up to three years to an eligible IFQ recipient (see § 679.41(k)(3)).

An exception to the owner-on-board requirement is provided for individuals who received initial allocations of QS in vessel category B, C, or D. Initial recipients of catcher vessel QS may be absent from a vessel conducting IFQ halibut or sablefish fishing, provided the QS holder can demonstrate ownership of the vessel which harvests the IFQ halibut or sablefish and representation on the vessel by a hired master. This exception allows fishermen who historically operated their fishing businesses using hired masters before the implementation of the IFQ Program to retain the flexibility of using hired masters under the IFQ Program. Hired master provisions also are applicable to the CDQ Program (described below), as annual halibut CDQ is issued to corporate entities. Each CDQ entity annually authorizes numerous fishermen to fish for its halibut CDQ and land halibut for accrual against the CDQ entity's halibut CDQ permit.

B. The CDQ Program

The CDQ Program is an economic development program associated with federally managed fisheries in the BSAI. The purpose of the program is to provide western Alaska communities the opportunity to participate and invest in BSAI fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska.

The CDQ Program receives apportionments of the annual catch limits for a variety of commercially valuable species in the BSAI. These allocations are in turn allocated among six different non-profit managing organizations (CDQ entities) representing different affiliations of 65 different communities. CDQ entities use the revenue derived from the harvest of their fisheries allocations as a basis for funding economic development activities and for providing employment opportunities. Thus, the successful harvest of CDQ Program allocations is integral to achieving the goals of the program.

Regulations establishing the CDQ Program were first implemented in 1992. The CDQ Program was incorporated into the Magnuson-Stevens Act in 1996 through the Sustainable Fisheries Act (Public Law 104–297). Section 305(i)(1) of the Magnuson-Stevens Act includes requirements to establish the CDQ Program and allocate a percentage of the total allowable catch of any Bering Sea fishery to the program. Corresponding Federal and state regulations implemented various administrative and fisheries management aspects of the CDQ Program. The fisheries management regulations governing the CDQ fisheries are integrated into the regulations governing the non-CDQ fisheries for groundfish, halibut, and crab. NMFS, the State of Alaska, and the Western Alaska Community Development Association administer the CDQ Program.

C. Description of Proposed Regulatory Amendments

This proposed action would (1) remove a prohibition against using longline pot gear in the Bering Sea during the month of June, and (2) amend regulations to allow military reservists and National Guard members to temporarily transfer their IFQ if mobilized to active duty.

The Council made recommendations for regulatory revisions for each of these actions in June 2006, as part of a multi-part IFQ regulatory amendment package. NMFS subsequently separated the Council's comprehensive recommendations into different regulatory amendment packages, including this proposed rule.

NMFS also proposes several administrative changes to amend certain modifiers that describe IFQ and CDQ permits in paragraphs (d) and (e) of § 679.4. This includes revising terms such as ''original,'' ''copy,'' and ''valid'' to read ''legible copy.'' This is intended to make the descriptors used in association with such permits consistent throughout these paragraphs.

The following sections provide a detailed explanation of the regulatory amendments contained in this proposed rule.

Allow Longline Pot Gear to be Used in the Bering Sea Sablefish Fishery in June

This proposed rule would amend regulations in 50 CFR part 679 to remove a prohibition against the use of longline pot gear in the Bering Sea sablefish fishery during the month of June. Existing regulations prohibit deployment of longline pot gear during this month, due to past concerns about conflicts between vessel operators that use different types of fishing gear. Specifically, § 679.24(c)(4) would be revised to remove a June closure for longline pot gear in the Bering Sea sablefish fishery.

The use of longline pot gear in the Bering Sea sablefish fishery became an issue in 1991. The nature of longline pot gear and strategies used in fishing longline pot gear was once thought to deter fishermen from deploying hook-and-line gear on fishing grounds where longline pot gear is set. The groundline (to which baited pots are attached) used with longline pot gear is heavier and stronger than that used for longline hook-and-line gear. If longline pot gear were to be set over previously deployed longline hook-and-line gear, the latter could be damaged or lost during its retrieval. The Council recommended a prohibition against longline pot gear in the Bering Sea subarea to prevent the potential preemption of fishing grounds. This was based on its concerns about potential conflicts between vessel operators using different gear types on common fishing grounds. Final regulations prohibiting the use of longline pot gear were published on August 21, 1992 (57 FR 37906). That rule fully describes the rationale for implementing this gear restriction.

In 1995, the IFQ Program extended the fishing season for halibut and sablefish in Federal waters off Alaska to approximately eight months. Prior seasons typically consisted of one or two day openings of concentrated effort. By allowing the sablefish fleet to spread its operations over time, the IFQ Program reduced the possibility of congestion and preemption of common fishing grounds. However, during the first IFQ season, fishing industry representatives reported to the Council that the annual Bering Sea sablefish quota had been underharvested due, in part, to fishery interactions with orcas and sperm whales.

Whales are able strip hooked fish from fishing gear, reducing the amount of sablefish landed by fishermen using hook-and-line gear. Such predation represents undocumented fishing mortality. Even though the sablefish quota may be underharvested by fishermen, overall fishing mortality could actually be higher than the specified quota, resulting in unrecorded harvests. Attempts to deter whales from preying on fish caught on hook-and-line gear by various non-lethal means have proven unsuccessful. One viable method for reducing whale predation is to harvest sablefish with longline pot gear instead of hook-and-line gear. This realization led to a reconsideration of the ban on longline pot gear in the sablefish fishery. On September 18, 1996, a Bering Sea closure to longline pot gear from June 1 through June 30 replaced the year-round gear prohibition (61 FR 49076).

The reintroduction of longline pot gear into the Bering Sea fisheries posed less of a concern for fishing grounds preemption in 1996, compared with 1992 when longline pot gear originally was prohibited. Authorizing the use of longline pot gear, with limitations, in the Bering Sea directed sablefish fishery allowed fishermen to use this gear and reduce interactions with whales. In recommending the lifting of the ban on longline pots, the Council expressed concern that, despite the decreased likelihood of grounds pre-emption, fishermen using traditional hook-and-line gear in relatively small boats may be pre-empted from grounds by fishermen in larger boats using longline pot gear. Thus, a June closure was retained for the benefit of small vessels using hook-and-line gear to fish for sablefish. June was chosen for the closure because it generally has fair weather, a safety advantage for small vessels.

In October 2004, a representative for longline pot vessels proposed that gear competition between the sablefish longline pot fleet and other fisheries had not occurred in June, and asserted that such potential conflicts were no longer a valid concern (as described below) and that the regulatory prohibition was unnecessary and burdensome. No public testimony was received in opposition to this proposal. As a result, the Council initiated an analysis of allowing longline pot gear during June in both the fixed gear Bering Sea IFQ and CDQ sablefish fisheries.

This proposed action would implement the Council's June 2006 recommendation to remove the June longline pot gear closure. Doing so may provide an opportunity to harvest additional amounts of the annual sablefish IFQ and sablefish CDQ allocations. These allocations historically have been underharvested. In 2007, 67 percent of the Bering Sea sablefish IFQ allocations was harvested, compared with 94 to 100 percent in the four different Gulf of Alaska sablefish regulatory areas. The fixed gear sablefish CDQ fishery caught 79 percent of the Bering Sea sablefish fixed gear CDQ allocation that year. On average, 56 percent of the annual Bering Sea sablefish IFQ allocation was harvested during the years 2003 through 2007. Since 2004, pot gear has accounted for over half of the annual fixed gear sablefish catch in the Bering Sea. While the original June closure was intended to prevent conflicts between different gear groups, one of the over-arching operational issues in the Bering Sea sablefish fishery in the last decade has been predation of hooked sablefish by whales. This in turn has led to changes in the predominant gear type used in this fishery to pot gear from hook-and-line gear, which may diminish the potential for fishing ground conflicts between different gear groups overall, and during June in particular.

This action would address a problem in the IFQ sablefish and CDQ sablefish fisheries resulting from a previous Council action. The June longline pot gear prohibition in the Bering Sea sablefish fisheries is operationally inefficient, with respect to the constraints that are placed on fishermen using longline pot gear during the middle of the sablefish season. This is of particular concern because longline

pot gear is increasingly being deployed in the Bering Sea, compared to the different mix of gear types deployed during the initial years of the IFQ Program. Most gear reported in the pot gear category in the Bering Sea is assumed to be longline pots, despite the lack of a unique reporting code for this gear type. Single pot and line gear is not used much in the Bering Sea sablefish fishery because sea conditions result in its loss.

Because the fixed gear sablefish fishery historically has not completely harvested the annual Bering Sea sablefish IFQ and CDQ allocations, elimination of the June closure may increase total landings and reduce fishing costs. NMFS does not have the information necessary to know whether the June longline pot gear prohibition results in completely foregone harvesting opportunities and revenue during that month, or whether sablefish fishing effort and harvests shift to other months of the sablefish fishing season. However, operational flexibility and economic efficiency is expected to increase for Bering Sea sablefish IFQ and CDQ fishermen should this action be approved. Fishermen wishing to use longline pot gear during June would benefit from this change by being able to use such gear without a mandatory, mid-season, one month stand down. This action could affect the 115 Bering Sea IFQ sablefish permit holders and the six CDQ entities that received sablefish CDQ in 2007. Industry representatives reported to the Council in 2006 that perhaps six longline pot vessels may fish this gear type during June if the prohibition is removed. No representatives of the hook-and-line sector testified about or have otherwise communicated to the Council or NMFS that this proposed change would have adverse effects on their sablefish fishing operations. NMFS also notes that longline pot gear may be used to fish for other Bering Sea groundfish species (such as Pacific cod) during June; issues of gear conflicts between Pacific cod longline vessel operators and sablefish hook-and-line vessel operators have not been communicated to NMFS.

Adoption of this proposed action would not change the catch monitoring and accounting practices in place for the sablefish IFQ and sablefish CDQ fisheries. Removing the June closure would mean that enforcement personnel would no longer have to monitor whether vessels fishing with longline pot gear in June were targeting sablefish, which currently is a prohibited activity. Neither the NOAA Office for Law Enforcement nor the U.S. Coast Guard have indicated any concerns or objections to the removal of this prohibition.

Allow Military Reservists and National Guardsmen to Temporarily Transfer Annual IFQ

This proposed rule would amend IFQ Program regulations to allow military reservists and members of the National Guard to temporarily transfer their halibut or sablefish IFQ to other eligible IFQ recipients, should they be mobilized to active duty. This proposed change is intended to allow reservists and guardsmen the potential to gain some economic benefit from their QS, should they be unavailable to fish their IFQ during a given year due to active military duty or deployment. Specifically, this proposed rule would add a new paragraph to § 679.41 to establish the conditions and criteria for allowing the temporary transfer of annual IFQ issued to reservists and National Guardsmen to other eligible IFQ recipients.

Existing QS and IFQ transfer regulations generally do not allow temporary transfers (leasing) of catcher vessel IFQ. Such restrictions are intended to ensure that QS owners also fish the IFQ associated with their quota shares, rather than leasing or otherwise assigning it to other parties to fish on their behalf. Thus, mobilized reservists and guardsmen (who are not otherwise authorized to hire a master to harvest their IFQ) may not temporarily transfer their annual IFQ so that it may be fished by another party. The inability to temporarily transfer IFQs during a military mobilization could constitute an economic hardship to affected service members and their dependents.

The Council advised NMFS that it wished to address a long-term solution to situations where QS holders in the military reserves or National Guard are mobilized without any recourse except to leave their annual IFQ allocation unharvested or to sell their quota share. This element was incorporated into the omnibus regulatory amendment that the Council was developing for other IFQ-related actions. The analysis for these regulatory amendments was released for public review in December 2005, followed by final Council action in June 2006, as described previously.

This proposed rule would implement the Council's recommendation to allow halibut and sablefish QS holders to request temporary IFQ transfers, if the applicant meets specified requirements related to eligibility and evidence of military mobilization or activation. An application and appeals process would be added to 50 CFR part 679. This proposed regulatory change would not jeopardize the Council's policy of having an owner-operator IFQ fleet. This alternative may further promote stable, owner-operated businesses in the halibut and sablefish IFQ fisheries. The Council modeled the policy elements associated with temporary military transfers (TMT) on those associated with emergency medical IFQ transfers.

This type of transfer would be limited to guardsmen and reservists that were deemed eligible to make such transfers, based on eligibility criteria established by NMFS. Such criteria would include evidence of active duty military service that would preclude the QS holder from fishing their IFQ during a given time period. A transfer would be temporary because it would be restricted in duration to a given fishing year. Qualified applicants would be required to request a TMT annually, even if the length of their deployment or mobilization exceeded one year.

The recipient of IFQ transferred via a TMT would presumably compensate the QS holder for the transferred IFQ, thus allowing QS holders to avoid some of the economic loss associated with their inability to fish their IFQ in a given year. This arrangement would benefit the mobilized QS holder and the temporary recipient of the IFQ. It could also result in a small increase in the use of the Halibut and Sablefish IFQ Program allocations compared with that under the status quo. The active use of IFQ that would otherwise be idled due to a guardsman or reservist's mobilization also would promote economic activity among fishing support industry sectors, and provide structural stability to the Council's ''owner-on-board'' policy by allowing guardsmen and reservists to retain their QS and resume IFQ fishing following a military deployment.

The general benefits associated with TMTs include (1) providing operational and economic flexibility to fishermen that are subject to valid military orders; (2) providing an income stream to such fishermen that may sustain them economically and allow their future participation in the IFQ fisheries; (3) providing an incremental increase in the amount of halibut and sablefish delivered to seafood processors; (4) sustaining demand for services and supplies from fishing industry support sectors; (5) ensuring a continued supply of fisheries products derived from the IFQ fishery to consumers; and (6) ensuring that any associated jobs, value-added production, tax revenues, and other benefits attributable to the economic activity made possible by the temporary transfer of otherwise inactive IFQ are sustained.

The application process for a military transfer would be similar to existing transfer applications under the IFQ Program. The application would consist of a form provided by NMFS that also describes the requirements necessary to receive a temporary military transfer. Information collected on these applications would include basic identifying information about the proposed transferor and transferee, documentation of active duty military service, as well as identifying characteristics of the IFQ being transferred. If NMFS denies an application for a TMT, the applicant may appeal the denial according to existing appeal procedures at § 679.43.

Administrative Changes

This proposed rule would amend certain modifiers (such as ''original,'' ''copy,'' and ''valid'') that are used to describe some of the different IFQ and CDQ permits that are required in regulations at § 679.4(d) and (e). These paragraphs are associated with halibut IFQ and sablefish IFQ permits, and halibut CDQ permits, respectively. Each of these paragraphs describes the different types of permits required to participate in the IFQ and CDQ fisheries, the activities authorized by different permit types, and other conditions of use, inspection, and validity. These two paragraphs were amended on August 9, 2007 (72 FR 44795) to replace the obsolete terms ''IFQ card'' and ''CDQ card'' with ''IFQ hired master permit'' and ''CDQ hired master permit,'' respectively.

This proposed rule would remove the word ''original'' from the description of IFQ hired master permits in paragraphs § 679.4(d)(2)(ii) and § 679.4(d)(6)(i)(B). This word would be replaced by the term ''legible copy.'' Regulations at § 679.4(d)(1)(ii) currently require that an ''original IFQ hired master permit'' must be on board a vessel that harvests halibut IFQ or sablefish IFQ. NMFS intended to change ''original'' to ''legible copy'' when it revised this paragraph to replace the term ''IFQ card'' with ''IFQ hired master permit,'' as described previously. However, the deletion of the word ''original'' was inadvertently omitted. The ''original on board'' requirement is a holdover from a previously removed requirement for IFQ fishermen to have their original, plastic IFQ Landing Card onboard the harvesting vessel.

Requiring fishermen to possess an original IFQ hired master permit currently is unnecessary for administrative or enforcement purposes. There are no ready means to distinguish an original hired master permit from a high quality copy. Additionally, NMFS notes that the time necessary to mail or otherwise convey an original IFQ hired master permit to a recipient is often lengthy, given the remote location of many of the Alaska communities to which such permits are sent. Allowing a copy of an IFQ hired master permit to be onboard a vessel would enhance the speed and efficiency of transmitting such permits to IFQ hired masters via facsimile or other electronic formats.

Furthermore, this proposed rule would make several other changes to the descriptive language associated with IFQ permits and CDQ hired master permits. The word ''copy'' associated with IFQ permits would be replaced with the term ''legible copy'' in paragraphs § 679.4(d)(6)(i)(A) and (B), as well as § 679.4(e)(2). The word ''valid'' associated with CDQ hired master permits in § 679.4(e)(3) would be replaced with the term ''legible copy.'' This would provide clarity and consistency for how IFQ permits and CDQ permits are described in § 679.4(d) and (e) with respect to the need for copies of permits to be legible.

Finally, the proposed rule would replace the term ''without a CDQ card'' with ''without a CDQ hired master permit'' in a prohibition at § 679.7(f)(6)(iii). As described previously, recent regulatory revisions to 50 CFR part 679 replaced the term ''CDQ card'' with the term ''CDQ hired master permit.'' This particular paragraph was inadvertently omitted from those revisions; this proposed rule would correct that omission.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

An initial regulatory flexibility analysis (IRFA) was prepared for the actions encompassed by this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact that the proposed action, if adopted, would have on directly regulated small entities. A business is considered a small entity if annual gross revenues are less than $4.0 million. A description of each independent action, why it is being considered, and the legal basis for it are presented above in the preamble to this rule. A summary of the remainder of the IRFA follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The objectives of this proposed rule are two-fold. First, it would address the potential economic inefficiencies created by maintaining a mid-season gear closure by allowing longline pot gear to be used to fish for sablefish in the Bering Sea during the month of June. Second, it would allow temporary transfers of IFQ for a specific class of halibut and sablefish QS holders: military reservists and National Guardsmen. This potentially would allow such QS owners to avoid the economic hardship that may be associated with not being able to harvest their annual IFQ if they were mobilized to active duty.

Allow Longline Pot Gear to be Used in the Bering Sea Sablefish Fishery in June

Two different classes of small entities were identified in the IRFA prepared for the proposed action to remove the longline pot gear restriction in the Bering Sea during June. The first includes holders of Bering Sea sablefish QS. This action may directly affect approximately 115 sablefish QS holders (as of 2006) in the Bering Sea regulatory area. The 2006 ex-vessel value of the sablefish IFQ harvested in the Bering Sea was approximately $4 million. Based on available data, and more general information concerning the probable economic activity of vessels in these IFQ fisheries, no vessel operation subject to the June gear closure restrictions could have been used to land more than $4 million in combined gross receipts in 2006 (the maximum gross revenue threshold for a ''small'' catcher vessel). Therefore, all sablefish QS holders who would be directly regulated by this proposed action are assumed to be ''small entities'' for purposes of the IRFA. At present, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of ''small'' entities in the IFQ Program, the subset of Bering Sea sablefish QS holders, or the number of such small entities that could benefit from the proposed removal of a regulatory restriction.

The second class of small entities that would be directly regulated by this proposed action includes the six CDQ groups that receive allocations of Bering Sea sablefish CDQ. CDQ groups are non-profit corporations that manage the fisheries allocations and other business matters for communities participating in the CDQ Program. Each of these groups is organized as a not-for-profit entity

and none is dominant in its field; consequently, each is a ''small entity'' under the RFA.

An unknown number of vessel operations may choose to use longline pot gear to fish for sablefish in June if the longline pot gear prohibition is removed from regulation. Testimony from participants in this fishery suggests that approximately six vessels may participate. Such vessels may participate in either the IFQ or CDQ sablefish fisheries during the sablefish fishing season. These vessels also may concurrently harvest IFQ and CDQ allocations on the same fishing trip.

The IRFA prepared for this proposed action examined two alternatives. Alternative 1, status quo, would maintain the June closure for longline pot gear for the fixed gear sablefish fishery in the Bering Sea. As such, it would continue to impose adverse economic impacts on the small entities currently participating in this fishery, without offsetting benefits. Alternative 2, the preferred alternative, would amend regulations to remove the June closure, per the request of participants in the Bering Sea sablefish fishery. This alternative would result in a regulatory change that would reduce economic and operational burdens on those small entities that use longline pot gear in the Bering Sea sablefish fisheries. The sablefish IFQ and CDQ season begins in March and ends in November. Entities that begin harvesting sablefish IFQ or CDQ prior to June, but that do not catch all of their annual sablefish allocation during this time must cease fishing for sablefish with longline pot gear during June, prior to resuming fishing. A June stand-down presumably requires additional costs to entities, such as removing longline pot gear from the fishing grounds, switching to another fishery or to another gear type to continue fishing for sablefish, as well as transit costs to and from fishing grounds. NMFS does not have sufficient cost information to approximate the actual costs associated with the effects of the June closure on entities involved in the longline pot gear for sablefish.

No adverse economic impacts on other user groups, including operators of hook-and-line vessels that also are small entities, were identified. Such entities fish concurrently with longline pot gear vessels during the remainder of the IFQ season without reported gear or fishing grounds conflicts. NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of the Magnuson-Stevens Act and other applicable statutes and that would minimize the adverse economic impact of the proposed action on small entities. The objective for this action was to relieve an operational restriction, and associated adverse economic effects, by eliminating a one month fishery closure that is specific to longline pot gear vessels. The original impetus for the June longline pot gear closure has been superceded by ongoing changes in the characteristics of the sablefish IFQ and CDQ fisheries; specifically, the increased use of longline pot gear to prosecute this fishery and the decreased use of hook-and-line gear.

Allow Military Reservists and National Guard Members to Temporarily Transfer Annual IFQ

This proposed action would amend regulations in 50 CFR part 679 that govern quota transfers conducted under the Pacific Halibut and Sablefish IFQ Program. Existing regulations allow permanent QS and IFQ transfers, but preclude temporary transfers of IFQ except for limited circumstances.

At present, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of ''small'' entities in the IFQ program that could be affected by this action. The number of military reservists or guardsmen that hold the category of QS that may not be legally fished by a hired master under current rules cannot be determined with available information. The number of these ''citizen soldiers'' who hold such restricted QS and who may be mobilized to active duty status during their fishing career cannot be estimated. Given these uncertainties, it is not possible to know how many QS holders could be expected to request a temporary military transfer of IFQs, if the proposed rule were adopted. Thus, the IRFA prepared for this action assumes that all halibut and sablefish QS holders are small entities, for RFA purposes. Based on this assumption, the proposed action has the potential to directly regulate any of the 3,467 small entities (as of 2006) that hold halibut QS and sablefish QS.

The IRFA prepared for this action examined two alternatives. Under Alternative 1, mobilized military reservists or guardsmen would not be able to temporarily transfer their IFQ. This could impose a financial burden on such QS holders because they would have to forego the economic benefit that could accrue from leasing their IFQ to other fishermen. It is not possible to quantify what such foregone benefits could be, absent information about how many reservists and guardsmen hold QS, whether and when such persons could be mobilized, and the amount of annual IFQ that could be left unharvested due to a QS holder being unable to catch their IFQ. Based on the standard prices used to assess IFQ fees (for all ports with IFQ landings, as of November 30, 2007), halibut was worth $4.37 per pound and sablefish was worth $2.95 per pound. This approximates the value of each pound of halibut and sablefish IFQ to those QS holders whose harvesting operations could be affected by being mobilized ordered to active duty. Alternative 2, the preferred alternative, would amend regulations to explicitly allow temporary IFQ transfers for mobilized guardsmen and reservists. This would decrease the likelihood that such QS holder would suffer economic hardship from being unable to catch his or her halibut or sablefish IFQ. Furthermore, Alternative 2 would minimize adverse impacts that may be attributable to idled IFQ that could accrue to processors, fishery dependent communities, and other fishing support businesses. However, absent information about the number of QS holders that could be affected by this change, as well as the amount of QS and corresponding IFQ that could be left unharvested, NMFS is unable to provide an estimate of such impacts. NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of the Halibut Act and the Magnuson-Stevens Act and other applicable statutes that would minimize the economic impact of the proposed rule on small entities. The objective of this action is to relax the policy of requiring halibut and sablefish QS holders to be onboard a vessel when associated IFQ is caught and landed for a specific class of QS holders.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted under OMB Control No. 0648–0569. Public reporting burden for Application for Temporary Military Transfer of IFQ is estimated to average two hours per response and four hours per response for appeal of a denied application, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS Alaska Region at the **ADDRESSES** above, and e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 28, 2008.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

2. In § 679.4, revise paragraphs (d)(2)(ii), (d)(6)(i)(A), (d)(6)(i)(B), (e)(2), and (e)(3) to read as follows:

§ 679.4 Permits.

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(d) * * *

(2) * * *

(ii) A legible copy of an IFQ hired master permit issued to an eligible individual in accordance with § 679.42(i) and (j) by the Regional Administrator must be onboard the vessel that harvests IFQ halibut or IFQ sablefish at all times that such fish are retained on board by a hired master. Except as specified in § 679.42(d), an individual that is issued an IFQ hired master permit must remain on board the vessel used to harvest IFQ halibut or IFQ sablefish with that IFQ hired master permit during the IFQ fishing trip and at the landing site during all IFQ landings.

* * * * *

(6) * * *

(i) * * *

(A) The IFQ permit holder must present a legible copy of the IFQ permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(B) The IFQ hired master permit holder must present a legible copy of the IFQ permit and a legible copy of a the IFQ hired master permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

* * * * *

(e) * * *

(2) *Halibut CDQ permit.* The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a legible copy of the halibut CDQ permit on any fishing vessel operated by, or for, a CDQ group that will have halibut CDQ onboard and must make the permit available for inspection by an authorized officer. The halibut CDQ permit is non-transferable and is issued annually until revoked, suspended, or modified.

(3) *Halibut CDQ hired master permits.* An individual must have onboard the vessel a legible copy of the halibut CDQ hired master permit issued by the Regional Administrator before landing any CDQ halibut. Each halibut CDQ hired master permit will identify a CDQ permit number and the individual authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ.

* * * * *

3. In § 679.7, revise paragraph (f)(6)(iii) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(6) * * *

(iii) *Hired master, CDQ halibut.* Make a CDQ halibut landing without a CDQ hired master permit listing the name of the hired master.

* * * * *

4. In § 679.24, revise paragraph (c)(4) to read as follows:

§ 679.24 Gear limitations.

* * * * *

(c) * * *

(4) *BSAI.* Operators of vessels using gear types other than hook-and-line, longline pot, pot-and-line, or trawl gear in the BSAI must treat sablefish as a prohibited species as provided by § 679.21(b).

* * * * *

5. In § 679.41, revise paragraph (g)(4) and add paragraph (m) to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

* * * * *

(g) * * *

(4) The Regional Administrator will not approve an Application for Transfer of QS assigned to vessel categories B, C, or D subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraphs (h) and (m) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Administrator may request a copy of the sales contract or other terms and conditions of transfer between two persons as supplementary information to the transfer application.

* * * * *

(m) *Temporary military transfers.* In the event of a military mobilization or order to report for military service affecting a QS holder that prevents him or her from being able to participate in the halibut or sablefish IFQ fisheries, the Regional Administrator may approve a temporary military transfer for the IFQ derived from the QS held by a QS holder affected by the military mobilization.

(1) *General.* A temporary military transfer will be approved if the QS holder demonstrates that he or she is unable to participate in the IFQ fishery for which he or she holds QS because of a military mobilization, order to report for military service, or active duty military service.

(2) *Eligibility.* To be eligible to receive a temporary military transfer, a QS holder must:

(i) Be a member of a branch of the National Guard or a member of a reserve component;

(ii) Possess one or more catcher vessel IFQ permits;

(iii) Not qualify for a hired master exception under § 679.42(i)(1); and

(iv) Be in active duty military service as that term is defined at 10 U.S.C. 101(d)(1), be under a call to active service authorized by the President or the Secretary for a period of more than 30 consecutive days under 32 U.S.C. 502(f), or in the case of a member of a reserve component, have been ordered to report for military service beginning on the date of the member's receipt of the order and ending on the date on which the member reports for active duty military service.

(3) *Application.* A QS holder may apply for a temporary military transfer by submitting a temporary military transfer application to the Alaska Region, NMFS. NMFS will transfer, upon approval of the application, the applicable IFQ from the applicant (transferor) to the recipient (transferee).

A temporary military transfer application is available at *http://www.fakr.noaa.gov* or by calling 1–800–304–4846. A complete application must include all of the following:

(i) The transferor's identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate.

(ii) The transferee's identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate.

(iii) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, number of units, range of serial numbers for IFQ to be transferred, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year.

(iv) Documentation of active military mobilization or deployment. This documentation must include the following:

(A) A copy of official documentation such as valid military orders or call that direct the transferor to report to active duty military service, to mobilize for a military deployment, or to report to active service.

(B) A concise description of the nature of the military deployment or active duty military service, including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of his/her active duty military service.

(v) The signatures and printed names of the transferor and transferee, and date.

(vi) The signature, seal, and commission expiration of a notary public.

(4) *Restrictions.* (i) A temporary military transfer shall be valid only during the calendar year for which the associated IFQ is issued.

(ii) A temporary military transfer will be issued only for the IFQ derived from the QS held by the applicant.

(5) *Temporary military transfer evaluations and appeals*—(i) *Initial evaluation.* The Regional Administrator will evaluate an application for a temporary military transfer submitted in accordance with paragraphs (c)(1) through (c)(9) of this section. An applicant who fails to submit the information specified in the application for a temporary military transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(ii) *Initial administrative determination (IAD).* The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information on the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

[FR Doc. E8–4247 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 44
Wednesday, March 5, 2008

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–08–0006; FV–08–377]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program (SCBGP)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability of approximately $8,440,500 in block grant funds, less USDA administrative costs, to enhance the competitiveness of specialty crops. State departments of agriculture interested in obtaining grant program funds are invited to submit applications to USDA. State departments of agriculture, meaning agencies, commissions, or departments of a State government responsible for agriculture within the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, are eligible to apply. State departments of agriculture are encouraged to involve industry groups, academia, and community-based organizations in the development of applications and the administration of projects.

DATES: Applications must be postmarked not later than March 5, 2009.

ADDRESSES: Applications may be sent to: SCBGP, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0235, Room 2077 South Building, Washington, DC 20250–0235.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Phone: (202) 690–4942, e-mail: *trista.etzig@usda.gov* or your State department of agriculture listed on the SCBGP Web site at *http://www.ams.usda.gov/fv/*.

SUPPLEMENTARY INFORMATION: SCBGP is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) and is implemented under 7 CFR part 1290 (published September 11, 2007; 71 FR 53303). The SCBGP assists State departments of agriculture in enhancing the competitiveness of U.S. specialty crops.

Specialty crops are defined as fruits and vegetables, dried fruit, tree nuts, and nursery crops (including floriculture). Examples of enhancing the competitiveness of specialty crops include, but are not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, ''buy local'' programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

Each interested State department of agriculture is to submit an application anytime before March 5, 2009 to the USDA contact noted in the **FOR FURTHER INFORMATION CONTACT** section. AMS will work with each State department of agriculture and provide assistance as necessary. State departments of agriculture who did not previously apply for fiscal year 2007 grant funds should submit an application postmarked not later than April 11, 2008 to qualify for receiving fiscal year 2007 grant funds. State departments of agriculture who wish to apply for both fiscal year 2007 and 2008 grant funds at the same time should submit one application postmarked not later than April 11, 2008. To apply for only fiscal year 2008 funds, State departments of agriculture should submit an application postmarked not later than March 5, 2009.

Other organizations interested in participating in this program should contact their State Department of Agriculture. State departments of agriculture specifically named under the authorizing legislation should assume the lead role in SCBGP projects, and use cooperative or contractual linkages with other agencies, universities, institutions, and producer, industry or community-based organizations as appropriate.

Additional details about the SCBGP application process for all applicants are available at the SCBGP Web site: *http://www.ams.usda.gov/fv/*.

To be eligible for a grant, each State department of agriculture's application shall be clear and succinct and include the following documentation satisfactory to AMS:

(a) Completed applications must include an SF–424 ''Application for Federal Assistance''.

(b) Completed applications must include one State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops. State departments of agriculture which did not previously apply for grant funds under the program should submit one State plan postmarked not later than April 11, 2008 for both fiscal year 2007 and 2008 grant funds. SCBGP grant funds will be awarded for projects of up to 3 years duration. An application that builds on a previously funded SCBGP project may also be submitted. In such cases, the State plan should indicate clearly how the project complements previous work. The State plan shall include the following:

(1) *Cover Page.* Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(2) *Project Purpose.* Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(3) *Potential Impact.* Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(4) *Financial Feasibility.* For each project, provide budget estimates for the total project cost. When submitting one State plan for both fiscal year 2007 and 2008 grant funds, identify which fiscal year funding is utilized for each project. If a project uses funds from both fiscal years, identify the amount of each fiscal year's funding. Also, indicate what percentage of the budget covers administrative costs. Administrative costs should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(5) *Expected Measurable Outcomes.* Describe at least two distinct, quantifiable, and measurable outcomes that directly and meaningfully support each project's purpose. The outcome

measures must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(6) *Goal(s).* Describe the overall goal(s) in one or two sentences for each project.

(7) *Work Plan.* Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines. Expected measurable outcomes may be long term that exceed the grant period. If so, provide a timeframe when long term outcome measure will be achieved.

(8) *Project Oversight.* Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(9) *Project Commitment.* Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(10) *Multi-State Projects.* If a project is a multi-state project, describe how the States are going to collaborate effectively with related projects. Each State participating in the project should submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

Each State department of agriculture that submits an application that is reviewed and approved by AMS is to receive $100,000 to enhance the competitiveness of specialty crops. In addition, AMS will allocate the remainder of the grant funds based on the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production using the latest available (2006 National Agricultural Statistics Service (NASS) cash receipt data for the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) specialty crop production data in all States whose applications are accepted.

The amount of the base grant plus value of production available to each State department of agriculture shall be:

(1) Alabama	$118,638.61
(2) Alaska	101,098.05
(3) Arizona	159,294.43
(4) Arkansas	105,096.06
(5) California	1,228,396.09
(6) Colorado	135,841.32
(7) Connecticut	116,864.85
(8) Delaware	104,504.80
(9) District of Columbia	100,000.00
(10) Florida	372,568.56
(11) Georgia	162,532.26
(12) Hawaii	117,906.58
(13) Idaho	148,201.36
(14) Illinois	123,537.58
(15) Indiana	118,300.75
(16) Iowa	106,194.10
(17) Kansas	104,504.80
(18) Kentucky	105,771.78
(19) Louisiana	110,867.83
(20) Maine	114,612.45
(21) Maryland	123,087.10
(22) Massachusetts	116,583.30
(23) Michigan	174,976.77
(24) Minnesota	126,184.15
(25) Mississippi	107,038.75
(26) Missouri	108,784.36
(27) Montana	105,462.07
(28) Nebraska	108,530.97
(29) Nevada	102,899.97
(30) New Hampshire	104,561.11
(31) New Jersey	137,755.86
(32) New Mexico	114,950.31
(33) New York	164,953.59
(34) North Carolina	178,439.83
(35) North Dakota	118,582.30
(36) Ohio	149,552.80
(37) Oklahoma	113,598.87
(38) Oregon	201,780.33
(39) Pennsylvania	158,590.56
(40) Puerto Rico	114,894.00
(41) Rhode Island	102,871.81
(42) South Carolina	121,848.28
(43) South Dakota	101,745.61
(44) Tennessee	123,396.81
(45) Texas	213,830.67
(46) Utah	105,687.31
(47) Vermont	102,787.35
(48) Virginia	123,565.74
(49) Washington	287,906.47
(50) West Virginia	100,563.10
(51) Wisconsin	144,090.73
(52) Wyoming	101,266.98

Applicants submitting hard copy applications should submit one copy of the application package. The SF–424 must be signed (with an original signature) by an official who has authority to apply for Federal assistance. Hard copy applications should be sent only via express mail to AMS at the address noted at the beginning of this notice because USPS mail sent to Washington DC headquarters is sanitized, resulting in possible delays, loss, and physical damage to enclosures. AMS will send an e-mail confirmation when applications arrive at the AMS office.

Applicants who submit hard copy applications are also encouraged to submit electronic versions of their applications directly to AMS via e-mail addressed to *scblockgrants@usda.gov* in one of the following formats: Word (*.doc); or Adobe Acrobat (*.pdf). Alternatively, a standard 3.5″ HD diskette or a CD may be enclosed with the hard copy application.

Applicants also have the option of submitting SCBGP applications electronically through the central Federal grants Web site, *http://www.grants.gov* instead of mailing hard copy documents. Applicants considering the electronic application option are strongly urged to familiarize themselves with the Federal grants Web site and begin the application process well before the application deadline.

SCBGP is listed in the Catalog of Federal Domestic Assistance under number 10.169 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Authority: 7 U.S.C. 1621 note.

Dated: February 28, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–4234 Filed 3–4–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–800–1610–DP 016C]

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Extension of Comment Period for the Draft San Juan Land Management Plan and Draft Environmental Impact Statement, Colorado

AGENCY: Bureau of Land Management, Interior. Forest Service, Agriculture.

ACTION: Notice of Comment Period Extension.

SUMMARY: The Bureau of Land Management (BLM) and Forest Service (FS) are announcing an extension of the comment period on the Draft Land Management Plan, Draft Environmental Impact Statement (DLMP/DEIS) for the public and National Forest System Lands under their jurisdiction and by this notice is announcing the extension of the comment period. The original notice published in the **Federal Register** on December 14, 2007 [72 FR 71148] and provided for a comment period to end on March 12, 2007.

DATES: The BLM and FS are extending the comment period for 30 days ending on April 11, 2008.

ADDRESSES: The Draft LMP/DEIS is posted on the Internet at *http://ocs.fortlewis.edu/forestPlan.* You may submit comments by any of the following methods:

- *Web site: http://ocs.fortlewis.edu/forestPlan.*
- *Facsimile:* (916) 456–6724.
- *Mail:* LMP Comments, San Juan Plan Revision, P.O. Box 162909, Sacramento, California 95816–2909.

Comments, including names and addresses of respondents, will be available for public review at the San Juan Public Lands Center, and will be subject to disclosure under the Freedom of Information Act (FOIA). 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. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Shannon Manfredi, Planning Team Leader at San Juan Public Land Center. Phone: (970) 385–1229.

SUPPLEMENTARY INFORMATION: The original Notice of Availability provided for comments on the Draft LMP/EIS to be received through March 12, 2008. The BLM and FS received requests for an extension of the comment period from individuals and groups. The BLM and FS are agreeing with these requests. Comments on the Draft Land Management Plan and Environmental Impact Statement will now be accepted through April 11, 2008.

Dated: February 26, 2008.

Dave Hunsaker,

Acting State Director, BLM.

Dated: February 26, 2008.

Randall Karstaedt,

Director of Physical Resources, Region 2, Forest Service.

[FR Doc. E8–4264 Filed 3–4–08; 8:45 am]

BILLING CODE 4310–DK–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement, Middle Fork Popo Agie River Watershed, Fremont County, WY

AGENCY: Natural Resources Conservation Service (NRCS).

ACTION: Rescind notice of intent to prepare an Environmental Impact Statement for the Middle Fork Popo Agie River Watershed, Fremont County, Wyoming.

SUMMARY: The Natural Resources Conservation Service is issuing this notice to advise the public that we are rescinding the notice of intent (NOI) to prepare an Environmental Impact Statement (EIS) on a proposal to address recurring flooding impacts along the Middle Fork Popo Agie River in and near the city of Lander, Fremont County, Wyoming, which was issued in the **Federal Register** on November 26, 2002 (Volume 67, Number 228).

FOR FURTHER INFORMATION CONTACT: Jay T. Mar, Assistant State Conservationist—Programs, Natural Resources Conservation Service, 100 East B Street, Room 3124, P.O. Box 33124, Casper, Wyoming 82602–5011, telephone (307) 233–6757.

SUPPLEMENTARY INFORMATION: The NRCS is rescinding the NOI to prepare an EIS for a project proposed to address recurring flooding impacts along the Middle Fork Popo Agie River in and near the city of Lander, Fremont County, Wyoming. The NOI is being rescinded because preliminary analysis of the proposed alternative indicates that impacts are likely not to be significant. NRCS has therefore determined an Environmental Assessment (EA) will be appropriate for this project.

Dated: February 25, 2008.

Jay T. Mar,

Assistant State Conservationist—Programs.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials.)

[FR Doc. E8–4265 Filed 3–4–08; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Norborne Baseload Plant

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Termination of Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development or the Agency, is terminating further action by Rural Development on the environmental review process in accordance with the Agency's environmental policies and procedures for the Norborne Baseload Plant (Norborne Plant) in Carroll County, Missouri.

The purpose of the Environmental Impact Statement (EIS) was to evaluate the potential environmental impacts of and alternatives to Associated Electric Cooperative, Incorporated's (AECI) application requesting federal financial assistance from Rural Development to construct the proposed 660 megawatt net supercritical pulverized coal fired power plant, new and modified substations, approximately 134 miles of new 345-kV transmission lines, a utility waste landfill, new rail access from existing mainline railroads, and a water supply system consisting of groundwater wells and associated pipeline. The AECI withdrew their application for federal financial assistance from the Agency on February 12, 2008, and has decided to evaluate non-federal financing options. The notice to prepare an EIS and to hold scoping meetings was published in the **Federal Register** on August 10, 2005. Four public scoping meetings were conducted in August of 2005. In addition, the Agency held an interagency scoping meeting with state and federal agency stakeholders on August 23, 2005. The Notice of Availability of the Draft EIS was published in the **Federal Register** on January 11, 2007 with the 45-day public comment period beginning on the date the U.S. Environmental Protection Agency (USEPA) published their receipt of the document. The USEPA's notice was published on January 26, 2007 and the public review period concluded on March 12, 2007. Three public hearings to solicit review comments were held between February 6–8, 2007. A Notice of Availability of the Final EIS was published in the **Federal Register** on July 13, 2007 with a 30-day public comment period. The comment period was extended to October 28, 2005 through a second notice published in the **Federal Register** on September 30, 2005.

FOR FURTHER INFORMATION, CONTACT: Stephanie A. Strength, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Mail Stop 1570, Room 2244, Washington, DC 20250–1570, telephone (202) 720–0468, fax (202) 720–0820, or e-mail: *Stephanie.strength@wdc.usda.gov.*

Dated: February 28, 2008.

James R. Newby,

Assistant Administrator, Rural Utilities Service.

[FR Doc. E8–4229 Filed 3–4–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT

[February 1, 2008 through February 29, 2008]

Firm	Address	Date accepted for filing	Products
John J. Steuby Company	6002 N. Lindbergh, Hazelwood, MO 63042.	1/4/08	Hardware to domestic markets.
Custom Manufacturing And Engineering	7582 4th Avenue, Lino Lakes, MN 55014.	1/7/08	Designs and manufactures thermoplastic injections molded parts for the consumer and promotional goods.
The Toy Works, Inc	101 Fiddler's Elbow Road, Middle Falls, NY 12848.	2/4/08	Hand printed gifts including doormats and door stops, kitchen textiles, mugs, decorative flags, canvas totes and decorative pillows.
Erisco Industries, Inc	1133 West 18th Street, Erie, PA 16502	2/4/08	Erisco produces steel wire and wire components.
Dasco Pro, Inc	340 Blackhawk Park Ave, Rockford, IL 61104.	2/4/08	Manufacturing of hand and hand struck tools cast or machined from steel and steel carbides.
Young Furniture Manufacturing, Inc	35 River Road, Bow, NH 03304	12/18/07	Manufactures unfinished cabinetry, casework and built-ins on a custom basis.
A La Carte Foods, Inc	278 Ideal Street, Paincourt, LA 70391	12/11/07	Raw seafood products, condiments and packaging.
CenTex, Inc	1301 N. Old Hwy 77 and 81 S., Hillsboro, TX 76645.	12/7/07	Processes and delints agricultural seed for commercial use.
Cable Manufacturing & Assembly Company, Inc.	10896 Industrial Parkway, NW, Bolivar, OH 44612.	10/26/07	Stranded cables, less than 3/8″ diameter, of steel and stainless steel.
AFC Stamping and Production	4900 Webster Street, Dayton, OH 45414	12/21/07	Metal stampings for the motor vehicle, appliance, medical device and other.
Scenic Fruit, Inc	7510 SE. Altman Road, Gresham, OR 97080.	12/27/07	Frozen blackberries.
Carlton Company	3901 SE. NAEF Road, Milwaukie, OR 97268.	2/3/08	Chain saw blades and parts, of base metal, not continuous lengths.
Denver Rubber Company	2340 W. 2nd Avenue, Denver, CO 80223.	1/31/08	Manufactured products include squeeze assemblies, gaskets and industrial hose. Import impacted articles are gaskets and industrial hoses.
Metal West	1229 South Fulton Avenue, Brighton, CO 80601.	1/17/08	Manufactures flat-rolled metal products.
Special Product Company	8540 Hedge Lane Terrace Shawnee, KS 66227–3200.	12/20/08	Aluminum housings for telecommunication equipment.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: February 28, 2008.

William P. Kittredge,

Program Officer for TAA.

[FR Doc. E8–4209 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

[Docket No. 990813222–0035–03]

RIN 0625–AA55

Office of Insular Affairs; Allocation of Duty-Exemptions for Calendar Year 2008 Among Watch Producers Located in the United States Virgin Islands

AGENCY: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: This action allocates calendar year 2008 duty exemptions for watch producers located in the Virgin Islands pursuant to Public Law 97–446, as amended by Public Law 103–465, Public Law 106–36 and Public Law 108–429 (''the Act'').

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the United States insular possessions and the Northern Mariana Islands. In accordance with section 303.3(a) of the regulations (15 CFR 303.3(a)), the total quantity of duty-free insular watches and watch movements for calendar year 2008 is 1,866,000 units for the Virgin Islands (65 FR 8048, February 17, 2000).

The criteria for the calculation of calendar year 2008 duty-exemption allocations among insular watch producers are set forth in section 303.14 of the regulations (15 CFR 303.14).

The Departments have verified and adjusted the data submitted on application form ITA–334P by U.S. Virgin Islands producers and inspected their current operations in accordance with Section 303.5 of the regulations (15 CFR 303.5).

In calendar year 2007 the Virgin Islands watch assembly firms shipped 243,070 watches and watch movements into the customs territory of the United States under the Act. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 2007 plus the creditable wages paid by the industry during calendar year 2007 to residents of the territory was $2,043,408.

There are no producers in Guam, American Samoa or the Northern Mariana Islands.

The calendar year 2008 Virgin Islands annual allocations, based on the data verified by the Departments, are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc	500,000
Hampden Watch Co., Inc	200,000
Tropex, Inc	200,000

The balance of the units allocated to the Virgin Islands is available for new entrants into the program or producers who request a supplement to their allocation.

Dated: February 28, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Department of Commerce.

Tom Bussanich,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 08–939 Filed 3–4–08; 8:45 am]

BILLING CODES 3510–DC–M; 4310–93–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Administrative Review in Part

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India manufactured by Shree Ganesh Forgings, Ltd. (Shree Ganesh) and Nakshatra Enterprises Pvt., Ltd. (Nakshatra). The period of review (POR) covers February 1, 2006, through January 31, 2007. We preliminarily determine that Shree Ganesh sold subject merchandise in the United States at less than normal value (NV) during the POR. We also preliminarily determine that Nakshatra's U.S. sales were not *bona fide* sales. Therefore, we intend to rescind the administrative review with respect to Nakshatra. We invite interested parties to comment on these preliminary results. Parties who submit written argument in these proceedings are requested to submit with the argument (1) a statement of the issues, and (2) a brief summary of the argument.

EFFECTIVE DATE: March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India. *See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India*, 59 FR 5994 (February 9, 1994) (Order). On February 2, 2007, the Department published the *Notice of Opportunity to Request Administrative Review* for this order covering the period February 1, 2006, through January 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (February 2, 2007). On February 28, 2007, we received requests for an administrative review from Nakshatra and Shree Ganesh.[1] On

[1] We also received requests for an administrative review from Echjay Forgings Pvt., Ltd., and Hilton Metal Forging, Ltd. However, both of these companies subsequently withdrew their requests for review in a timely manner. Therefore, we rescinded the administrative review with respect to these companies. *See Partial Rescission of Antidumping Duty Administrative Review: Certain*

Continued

March 28, 2007, we initiated the administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 14516 (March 28, 2007).

Nakshatra

On March 28, 2007, the Department issued its initial questionnaire to Nakshatra. Nakshatra submitted its section A response on April 26, 2007, and its section B and C responses on May 15, 2007. The Department issued a supplemental questionnaire on June 19, 2007, to which Nakshatra responded on July 17, 2007. We issued a second supplemental questionnaire on September 7, 2007, to which Nakshatra responded on October 3, 2007. We issued a third supplemental questionnaire to Nakshatra on October 25, 2007; Nakshatra filed its response on November 19, 2007. We issued a fourth supplemental questionnaire to Nakshatra on December 18, 2007, to which Nakshatra responded on January 7, 2008. On January 11, 2008, we issued a questionnaire to Nakshatra's U.S. customer. We received a response from this company on January 22, 2008. In its response, the company stated that it did not intend to answer the questions we asked in the questionnaire.

Shree Ganesh

The Department sent its questionnaire to Shree Ganesh on March 28, 2007. Shree Ganesh submitted its response to the section A questionnaire on April 17, 2007. (The Department later sent this submission back to Shree Ganesh for rebracketing. Shree Ganesh submitted the rebracketed version on May 21, 2007.) It submitted its responses to sections B and C on May 1, 2007. The Department issued a supplemental section A, B, and C questionnaire to Shree Ganesh on June 8, 2007. Shree Ganesh submitted its response to that supplemental questionnaire on July 5, 2007. (The Department later returned this submission to Shree Ganesh for rebracketing. Shree Ganesh submitted the revised version on November 13, 2007.) On August 16, 2007, the Department issued a second supplemental questionnaire to Shree Ganesh, to which Shree Ganesh submitted its response on September 7, 2007. On September 25, 2007, the Department issued a third supplemental questionnaire to Shree Ganesh, to which it responded on October 9, 2007.

Scope of the Order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the scope of the order.

Date of Sale

The preamble to the Department's regulations expresses a strong preference for the Department to choose a single date of sale across the full POR. *See Antidumping Duties; Countervailing Duties: Final Rule,* 62 FR 27296, 27349 (May 19, 1997). The Department normally uses the date of invoice as the date of sale. *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087 (CIT 2001). However, the Department may use a date other than the date of invoice if that date best reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i). For these preliminary results, the Department used the purchase order date as the appropriate date of sale for Shree Ganesh in both the U.S. and home markets because information on the record indicates that no changes occurred with respect to the material terms of sale, such as price or quantity following Shree Ganesh's receipt of the purchase order. *See* Shree Ganesh's May 21, 2007, submission at 16 and its November 13, 2007, submission at 14. Thus, the purchase order date represents the earliest date upon which the material terms of sale are set. We made no date of sale determination with respect to Nakshatra because we have preliminarily determined to rescind the review with respect to Nakshatra. *See Intent to Rescind* (below).

Normal Value Comparisons

To determine whether Shree Ganesh's sales of subject merchandise to the United States were made at less than NV, we compared export price (EP) to the NV (as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below). In accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended (the Tariff Act), the Department calculated monthly weighted-average prices for NV and compared these to the prices of individual EP transactions.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, the Department considered all products described by the ''Scope of the Order'' section, above, produced and sold by Shree Ganesh in the home market to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period pursuant to 19 CFR 351.414(e)(1) based on the following product characteristics in the following order: Grade; type; size; pressure rating; and finish. The Department used a 20 percent difference-in-merchandise (difmer) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. *See* 19 CFR 351.411. Variable cost of manufacture consisted of the sum of material costs, direct labor, and variable overhead. Total cost of manufacture consisted of variable cost of manufacture plus fixed overhead.

Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. Where there were no sales of identical or similar merchandise in its home market suitable for comparing to U.S. sales, the Department compared these U.S. sales to constructed value (CV), pursuant to sections 773(a)(4) and 773(e) of the Tariff Act.

Forged Stainless Steel Flanges from India, 72 FR 41292 (July 27, 2007).

Export Price and Constructed Export Price

In accordance with section 772(a) of the Tariff Act, EP is defined as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Tariff Act. In accordance with section 772(b) of the Tariff Act, constructed export price (CEP) is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For Shree Ganesh's sales to the United States, we used EP in accordance with section 772(a) of the Tariff Act because its merchandise was sold directly to the first unaffiliated purchaser prior to importation, and CEP was not otherwise warranted based on the facts of the record. We based EP on the packed, CIF U.S. port of destination prices to the first unaffiliated purchaser in the United States. We made deductions, where applicable, for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, including domestic inland freight, domestic brokerage and handling, ocean freight, and marine insurance.

Normal Value

A. Selection of Comparison Market

In determining NV, the statute requires the Department to determine the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP or CEP. *See* 773(a)(1)(B) of the Tariff Act. Furthermore, the Department determines the export market to be viable if it is satisfied that the sales of foreign like product in that country were of sufficient quantity to form the basis of NV. *See* 773(a)(1)(B) of the Tariff Act; *see also* 19 CFR 351.404(b)(1) and (2). The Department defines a viable market as one of ''sufficient quantity'' if the aggregate volume of the sales of foreign like product in that market during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR. *See* 773(a)(1)(B) of the Tariff Act. Therefore, in order to determine whether there was a sufficient quantity of sales in Shree Ganesh's home market to serve as a viable basis for calculating NV, the Department compared the volume of Shree Ganesh's home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Based on its comparison of shipment volumes, the Department found that Shree Ganesh had a viable home market and, therefore, based NV for Shree Ganesh on home market sales to unaffiliated purchasers made in the usual quantities and in the ordinary course of trade. *See* 773(a)(1)(B) of the Tariff Act.

B. Price-to-Price Comparisons

The statute requires the Department to determine whether subject merchandise is being, or is likely to be, sold at less than fair value by making a fair comparison between the EP or CEP and NV under section 773 of the Tariff Act. Where the Department found contemporaneous matches of either identical or similar merchandise that passed the 20 percent difmer test, it based the margin on such matches, making adjustments for differences in packing costs between the two markets in accordance with section 773(a)(6)(A) of the Tariff Act, and where appropriate, for differences in merchandise between the products compared. We made no adjustments to NV for movement expenses because all of Shree Ganesh's home market sales were made on an ex-works basis. *See* Shree Ganesh's May 1, 2007, section B response at 8. The Department also adjusted NV for imputed credit to account for differences in the circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410.

C. Constructed Value

In accordance with section 773(a)(4) of the Tariff Act, the Department bases NV on CV if it is unable to find a contemporaneous comparison market match for the U.S. sale. Section 773(e) of the Tariff Act provides that when the Department bases NV on CV, we calculate CV as the sum of the cost of materials and fabrication employed in producing the subject merchandise, SG&A, packing, and profit. In accordance with section 772(e)(2)(A) of the Tariff Act, the Department bases SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, the Department uses the weighted-average comparison market selling expenses. Where appropriate, the Department makes COS adjustments to CV in accordance with section 773(a)(8) of the Tariff Act and 19 CFR 351.410. For comparisons to EP, the Department makes COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For purposes of these preliminary results, we based NV for some U.S. sales on CV.

D. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as EP or CEP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is based on the starting price of the sales to the U.S. market.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Tariff Act.

In implementing these principles in this review, we obtained information from Shree Ganesh about the marketing stages involved in its U.S. and comparison market sales, including a description of the company's selling activities in the respective markets. Generally, if the reported LOTs are the same in the U.S. and comparison markets, the functions and activities of the seller should be similar. Conversely, if a party reports differences in LOTs, the functions and activities should be dissimilar.

Shree Ganesh reported two customer categories in its home market (original equipment manufacturers (OEMs) and traders). *See* Shree Ganesh's November 13, 2007, submission at Exhibit 3 and its October 9, 2007, submission at 4. It reported one customer category in its U.S. market (distributors). *See* Shree

Ganesh's November 13, 2007, submission at 14. Shree Ganesh further reported that it performs identical selling functions for all customers in the U.S. and foreign markets. *See* Shree Ganesh's November 13, 2007, submission at 4. These selling functions included exhibitions, sales promotions, advertisements, and technical/customer services. *See* Shree Ganesh's May 21, 2007, submission at 12. Further, Shree Ganesh reported that its selling activities do not vary by customer category, and it performs the same functions for all customers. *See* Shree Ganesh October 9, 2007, submission at 5.

After analyzing the data on the record with respect to these selling functions, we find no evidence of differences in the selling functions performed for different customer categories to support a determination that Shree Ganesh makes sales at more than one LOT. We therefore find that a single LOT exists for all of Shree Ganesh's sales to the United States and to its home market, and that no LOT adjustment is warranted.

Currency Conversions

The Department made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank of the United States.

Intent To Rescind

As indicated above, we have preliminarily determined that Nakshatra's sales to the United States during the POR were not *bona fide* sales. We determined, based on the totality of circumstances, that Nakshatra's U.S. sales were not in accordance with commercial reality. *See* the Memorandum to the File, ''*Bona Fide* Nature of the Sale in the Administrative Review of Nakshatra Enterprises, Pvt., Ltd.,'' dated February 28, 2008, for a complete explanation of our analysis.

Preliminary Results of Review

As a result of our review, the Department preliminarily finds the following weighted-average dumping margin exists for the period February 1, 2006, through January 31, 2007:

Manufacturer/Exporter	Margin (percent)
Shree Ganesh Forgings, Ltd	40.38

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of the preliminary results. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of review. Pursuant to 19 CFR 351.309(d), rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than five days after the time limit for filing the case briefs. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests parties submitting written comments to provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice). This clarification will apply to entries of subject merchandise during the POR produced by Nakshatra and Shree Ganesh for which Nakshatra and Shree Ganesh, respectively, did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 162.14 percent all-others rate established in the original less-than-fair-value (LTFV) investigation, if there is no rate for the intermediary involved in the transaction. *See* the Assessment Policy Notice for a full discussion of this clarification.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Shree Ganesh will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent); (2) for manufacturers or exporters not covered in this review, but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 162.14 percent, the all-others rate established in the LTFV investigation. *See Order*, 59 FR 5994, 5995.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: February 26, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–4241 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Rescission of Antidumping Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (''the Department'') is preliminarily rescinding the administrative reviews on heavy forged hand tools, finished or unfinished, with or without handles (''HFHTs'') from the People's Republic of China (''PRC''). These reviews cover the period of review of February 1, 2006, through January 31, 2007 (''POR'').

EFFECTIVE DATE: March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2007, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative eview of the antidumping duty orders on heavy forged hand tools from the PRC for the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (February 2, 2007). On February 28, 2007, Council Tool Company, a domestic interested party, requested that the Department conduct administrative reviews of Truper Herramientas S.A. de C.V. (''Truper''), a Mexican importer of HFHTs from the PRC. On March 28, 2007, the Department published a notice of initiation of an antidumping duty administrative reviews on HFHTs from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 14516 (March 28, 2007) (''Notice of Initiation''),.

On May 4, 2007, Truper submitted a letter stating that it had no sales of subject merchandise to the United States during the POR. On May 10, 2007, we sent an inquiry to United States Customs and Border Protection (''CBP'') requesting notification as to whether it had information indicating that there were shipments of subject merchandise into the United States during the POR by Truper. On April 25, 2007, September 7, 2007,[1] and November 2, 2007, we issued Truper questionnaires, for which we received timely responses. On November 9, 2007, we extended the deadline for the preliminary results. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 72 FR 63557 (November 9, 2007). On January 28, 2007, through January 30, 2007, the Department verified Truper's questionnaire responses. *See Memorandum to the File: Verification of Truper Herramientas S.A. de C.V. in the Antidumping Administrative Review of Heavy Forged Hand Tools from the People's Republic of China*, dated February 26, 2008 (''Truper Verication Report'').

Scope of the Review

The products covered by these orders are HFHTs from the PRC, comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States (''HTSUS'') subheadings: 8205.20.60, 8205.59.30, 8201.30.00, 8201.40.60, and 8205.59.5510. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

The Department issued nine conclusive scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the ''Max Multi–Purpose Axe,'' imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found ''18–inch'' and ''24–inch'' pry bars, produced without dies, imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the ''Pulaski'' tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the ''skinning axe,'' imported by Import Traders, Inc., to be within the scope of the axes/adzes order; (5) on December 9, 2004, the Department found the ''MUTT,'' imported by Olympia Industrial, Inc., under HTSUS 8205.59.5510, to be within the scope of the axes/adzes order; (6) on May 23, 2005, the Department found 8–inch by 8–inch and 10–inch by 10–inch cast tampers, imported by Olympia Industrial, Inc. to be outside the scope of the orders; (7) on September 22, 2005, following remand, the U.S. Court of International Trade affirmed the Department's determination that cast picks are outside the scope of the order; (8) on October 14, 2005, the Department found the Mean Green Splitting Machine, imported by Avalanche Industries, under HTSUS 8201.40.60, to be within the scope of the bars/wedges order, and (9) on July 27, 2006, the Department found that the gooseneck claw wrecking bar which has a length of 17 7/8'' not including the curvature portion of the bar stock, imported by Central Purchasing, LLC, to be outside the scope of the order for bars and wedges.

Preliminary Rescission of Reviews

On May 4, 2007, Truper responded to the Department's questionnaire and stated that it made no sales of subject merchandise to the United States during the POR. Based on information placed on the record September 5, 2007, the Department issued Truper several questionnaires. *See Background* section above. Accordingly, the Department verified Truper's information and confirmed Truper's statements that it neither purchased nor resold HFHTs from PRC to the United States during

[1] On September 5, 2007, the Department placed information obtained from CBP on the record of this review suggesting that Truper had entries of PRC HFHTs to the United States during the POR.

the POR. *See Truper Verification Report.* Therefore, because there is no information on the record that indicates Truper made sales to the United States of HFHTs from the PRC during the POR, and because Truper is the only company subject to these administrative reviews, we are preliminarily rescinding these reviews for the period of February 1, 2006, to January 31, 2007, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 5 days after the deadline for submitting the case briefs. *See* 19 CFR 351.309(d). The Department requests that interested parties provide an executive summary of each argument contained within the case briefs and rebuttal briefs.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of this preliminary rescission, and will publish these results in the **Federal Register**.

This notice is in accordance with section 751 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 28, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4248 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–847]

Persulfates From the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order

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

EFFECTIVE DATE: March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6412.

SUMMARY: On November 1, 2007, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on persulfates from the People's Republic of China (''PRC''). On the basis of a notice of intent to participate, and an adequate substantive response filed on behalf of domestic interested parties, as well as a lack of response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the Final Results of Review section of this notice.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2007, the Department published the notice of initiation of the sunset review of the antidumping duty order on persulfates from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Reviews*, 72 FR 61861 (November 1, 2007) (''*Initiation Notice*''). On November 16, 2007, the Department received a notice of intent to participate from a domestic interested party, FMC Corporation (''FMC''), within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. FMC claimed interested party status under section 771(9)(C) of the Act as a domestic producer of persulfates in the United States and a petitioner in the original investigation. On December 3, 2007, the Department received a substantive response from FMC within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(*2*) of the Department's regulations, the Department determined to conduct an expedited review of the order.

Scope of the Order

The products covered by this order are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively, $(NH_4)_2S_2O_8$, $K_2S_2O_8$, and $Na_2S_2O_8$. Potassium persulfates are currently classifiable under subheading 2833.40.10 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Sodium persulfates are classifiable under HTSUS subheading 2833.40.20. Ammonium and other persulfates are classifiable under HTSUS subheadings 2833.40.50 and 2833.40.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated February 29, 2008, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 1117 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to section 752(c)(3) of the Act, we determine that revocation of the antidumping duty order on persulfates from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted-average margin (percent)
Sinochem Jiangsu Wuxi Import & Export Corporation (Wuxi)	32.22
Shanghai Ai Jian Import & Export Corporation (Shanghai AJ)	34.41
Guangdong Petroleum Chemical Import and Export Trade (Guangdong Petroleum)	34.97
PRC-wide	119.02

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4243 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms from India: Notice of Amended Final Results Pursuant to Final Court Decision

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

SUMMARY: On November 20, 2007, the Court of Appeals for the Federal Circuit (CAFC) reversed the decision of the Court of International Trade (CIT) which upheld the Department of Commerce's (the Department) determination in the 2002–2003 administrative review of certain preserved mushrooms from India to conduct a duty absorption inquiry under section 751(a)(4) of the Tariff Act of 1930, as amended (the Act), when the producer/exporter acts as its own importer of record. *See Agro Dutch Industries Ltd. v. United States*, Slip Op. 2007–1011 (Fed. Cir. November 20, 2007) (*CAFC Decision*). Pursuant to the CAFC's decision and mandate, on January 24, 2008, the CIT entered final judgment and ordered the Department to annul all duty absorption findings with respect to Agro Dutch Industries, Ltd. (Agro Dutch). As there is now a final and conclusive court decision in this case, the Department is amending the final results of the 2002–2003 administrative review of certain preserved mushrooms from India.

EFFECTIVE DATE: March 5, 2008.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Katherine Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–4136 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 2004, the Department published its final results of administrative review, covering the period of review from February 1, 2002, through January 31, 2003. *See Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 69 FR 51630, 51631 (August 20, 2004) (*Final Results*), and accompanying Issues and Decision Memorandum at Comment 5. In the *Final Results*, the Department determined that antidumping duties had been absorbed by the respondents in the review, including Agro Dutch, on those sales for which the respondent was the importer of record, in accordance with section 751(a)(4) of the Act. In October 2004, Agro Dutch contested the Department=s duty absorption finding, along with several other findings made in the *Final Results*, before the CIT. The CIT issued its decision, affirming the Department's finding of duty absorption, in March 2006. *See Agro Dutch Industries., Ltd. v. United States*, Slip Op. 2006–40 (CIT March 28, 2006).

Agro Dutch appealed that decision to the CAFC. On November 20, 2007, the CAFC reversed the CIT's decision on the duty absorption issue. The CAFC held that the Department was not empowered to conduct a duty absorption inquiry under section 751(a)(4) of the Act with respect to the sales made by Agro Dutch on which it acted as the importer of record because such sales were not made by Agro Dutch through an importer with whom it is affiliated. The CAFC held that because the term ''affiliated'' is defined in the statute, the reference in section 751(a)(4) of the Act that subject merchandise be sold ''through an importer who is affiliated'' with the producer/exporter is unambiguous -- *i.e.*, the statutory definition of ''affiliated persons'' requires the presence of two or more entities and, therefore, Agro Dutch cannot be ''affiliated'' with itself. Pursuant to the CAFC's decision and mandate, on January 24, 2008, the CIT entered final judgment and ordered the Department to annul all duty absorption findings and conclusions with respect to Agro Dutch in the *Final Results*.

Because there is now a final and conclusive court decision in this case, the Department is amending the final results of the 2002–2003 administrative review.

Amended Final Results of Review

We are amending the final results of the 2002–2003 administrative review on the antidumping duty order on certain preserved mushrooms from India to annul our duty absorption finding and conclusion with respect to Agro Dutch. Specifically, we annul our finding that Agro Dutch absorbed antidumping duties during the period of review on those sales for which it was the importer of record. This amendment does not affect the weighted–average margin calculated for Agro Dutch for the period of review.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries for this review. We intend to issue the assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4239 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–449–804]

Steel Concrete Reinforcing Bars from Latvia: Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 5, 2008

FOR FURTHER INFORMATION CONTACT: David Layton at (202) 482–0371; AD/

CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of steel concrete reinforcing bars (rebar) from Latvia for the period of review covering September 1, 2006, through August 31, 2007 (the POR). *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 50657 (September 4, 2007). On September 28, 2007, in accordance with 19 CFR 351.213(b)(1), the Rebar Trade Action Coalition and its individual members (RTAC)[1] requested an administrative review of Joint Stock Company Liepajas Metalurgs (LM).

The Department published the notice of initiation of the administrative review of the antidumping duty order on rebar from Latvia on October 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007). On November 30, 2007, LM submitted a letter to the Department in which it certified that it made no sales or exports of subject merchandise to the United States during the POR.

On January 9, 2008, the Department issued a ''No Shipment Inquiry'' to U.S. Customs and Border Protection (CBP) to confirm that there were no shipments or entries of rebar from Latvia exported by LM during the POR of the instant administrative review. On January 24, 2008, the Department confirmed, based on a review of CBP data and the results of its CBP inquiry, that there were no entries of subject merchandise exported or shipped by LM during the POR. Based on our findings, we notified parties of our intent to rescind and gave them an opportunity to comment. *See* the Memorandum to The File from David Layton entitled, ''Department Intent to Rescind Review,'' dated January 24, 2008 (*Intent to Rescind Memo*). No party commented on our *Intent to Rescind Memo*. In accordance with 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Department concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding our review with respect to LM. *See*, *e.g.*, *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65083 (November 7, 2006).

Although the respondent does not have any sales or exports of subject merchandise to the United States during the POR, its subject merchandise may have entered the United States during the POR under its CBP antidumping case number by way of intermediaries (without its knowledge). Fifteen days after the publication of this notice, the Department will instruct CBP to liquidate such entries at the all–others rate in effect on the date of the entry. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

This notice serves as a reminder to parties subject to administrative protective orders of their responsibility concerning the return or destruction of proprietary information disclosed under the administrative protective order (APO) in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 25, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4249 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] RTAC is the petitioner in this proceeding. Its individual members include Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648–XB90

Availability of a Draft Environmental Assessment/Habitat Conservation Plan, and Receipt of Applications for Incidental Take Permits from the Broughton Land Company, Columbia County, Washington

AGENCIES: U.S. Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Availability.

SUMMARY: The FWS and the NMFS (collectively, the Services) announce the availability for public review of a combined draft Environmental Assessment/Habitat Conservation Plan (EA/HCP) pertaining to an application by the Broughton Land Company (BLC) for incidental take permits (ITPs) pursuant to the Endangered Species Act of 1973, as amended (ESA). The draft EA/HCP addresses the proposed issuance of ITPs by the Services to the BLC for land management activities in Columbia County, Washington, that are identified in the HCP portion of the draft document. The proposed ITPs would authorize take, incidental to otherwise lawful activities, of the following threatened fish species: the bull trout (*Salvelinus confluentus*); Snake River spring/summer Chinook salmon and the Snake River fall Chinook salmon (both *Oncorhynchus tshawytscha*); and the middle Columbia River steelhead trout and the Snake River steelhead trout (both *O. mykiss*).

We request comments from the public on the permit applications and the draft EA/HCP, all of which are available for review. The EA/HCP describes the proposed action and the measures that the BLC will implement to minimize and mitigate take of the threatened fish species discussed above. To review the documents, see ''Availability of Documents'' in the **SUPPLEMENTARY INFORMATION** section below.

DATES: All comments must be received on or before April 4, 2008.

ADDRESSES: Please address written comments to the FWS Field Supervisor, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, WA 99206. You may also send

comments by facsimile to (509) 891–6748 or by e-mail to *fw1broughtonhcp@fws.gov*.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Michelle Eames, Project Manager, FWS, at (509) 893–8012, (509) 893–8010, or Dennis Carlson, Project Manager, NMFS, at (360) 753–5828.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the draft documents listed above are available for public inspection and review during normal business hours at the FWS's Upper Columbia Fish and Wildlife Office and at the Dayton Public Library, 111 South 3rd Street, Dayton, WA 99382. You can also request copies by contacting the Services (see **FOR FURTHER INFORMATION CONTACT** section above) or on the internet at: *http://www.fws.gov/easternwashington*. The Services are soliciting comments from state and other Federal agencies, Tribes, and the public on these documents. All comments received will become part of the public record for this proposed action.

Background

Section 9 of the ESA (16 U.S.C. 1538) and the implementing regulations prohibit the ''taking'' of endangered or threatened species without a special exemption. The term take is defined under the ESA (16 U.S.C. 1532(19)) to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. ''Harm'' is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). The NMFS definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (50 CFR 222.102).

Section 10 of the ESA and the implementing regulations specify the requirements for the issuance of ITPs to non-Federal parties for the take of endangered and threatened species. Any proposed take must be incidental to otherwise lawful activities, must not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and must minimize and mitigate the impact of such take to the maximum extent practicable. In addition, an applicant must prepare an HCP describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the incidental take, the funding available to implement such steps, alternatives to such taking, and the reasons such alternatives are not being implemented. The FWS regulations governing permits for federally endangered and threatened species are found at 50 CFR 13.21. The NMFS regulations governing permits for federally endangered and threatened species are found at 50 CFR 222.307.

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, a reasonable range of alternatives to a proposed action must be developed and considered in the agencies' environmental review. Alternatives considered in an HCP environmental analysis may include: variations in the scope of covered activities; variations in the location, amount, and type of conservation; variations in permit duration; or a combination of these elements.

The BLC applied to the Services for two ITPs, which would authorize take of several threatened fish species. The FWS would issue an ITP to cover incidental take of the bull trout, and NMFS would issue an ITP to cover incidental take of the Snake River spring/summer Chinook salmon, Snake River fall Chinook salmon, middle Columbia River steelhead trout, and the Snake River steelhead trout. The proposed ITPs would authorize the take of those species incidental to otherwise lawful activities, including: (1) agricultural practices, including dry land and irrigated crop production; (2) livestock grazing; and (3) timber harvest (including final and intermediate harvesting, pre-commercial thinning, and salvage harvest activities). Each of the alternatives described and analyzed in the EA portion of the draft HCP/EA cover approximately 38,000 acres in various parcels in Columbia County, Washington. The proposed duration of the ITPs and HCP would be 25 years, although many aspects of the HCP's conservation strategy are intended to benefit aquatic species and their habitat beyond the term of the proposed permits. Should the permits be issued, they would include assurances under the Services' ''No Surprises'' regulations, which specify that as long as the terms of the HCP and the Permits are implemented, no additional conservation or mitigation measures will be required of the BLC, with respect to the covered species listed above, except as provided for in the HCP or required by a change in law. The draft EA/HCP identifies HCP alternatives considered by the BLC, NEPA alternatives considered in the EA, and explains why those alternatives were not selected.

The Services will evaluate the applications, associated documents, and public comments to determine whether the applications meet the requirements of NEPA regulations and section 10(a) of the ESA. Specifically, the applications will be evaluated to determine if they meet the following issuance criteria in section 10(a)(2)(B) of the ESA: the taking will be incidental; the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; the applicant will ensure that adequate funding for the HCP will be provided; the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and any other measures that the Secretaries of Commerce or the Interior may require as being necessary or appropriate for the purposes of the HCP will be taken. If it is determined that the requirements are met, NMFS and the FWS will issue permits for the incidental take of the covered species under their respective jurisdictions. The final EA will not be completed and permit decisions will not be made until after the end of the 30–day comment period. The final EA and permit decisions will fully consider all public comments received during the comment period.

Dated: February 28, 2008.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: February 28, 2008.

David J. Wesley,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. E8–4262 Filed 3–4–08; 8:45 am]

BILLING CODES 4310–55–S, 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG01

Endangered and Threatened Species; Revised Recovery Plan for Distinct Population Segments of Steller Sea Lion

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

ACTION: Notice of Availability, responses to comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability of the Final Revised Recovery Plan, dated March 2008, for the western and eastern distinct population segments (DPS) of Steller sea lion (*Eumetopias jubatus*). NMFS also provides a link to the comprehensive and extensive responses to comments on the May 2007 Draft Revised Steller Sea Lion Recovery Plan posted on our website.

ADDRESSES: The Final Revised Steller Sea Lion Recovery Plan and the Responses to Comments are available on the Internet at the following address: *http://alaskafisheries.noaa.gov/protectedresources/stellers/recovery.htm*. Copies of the Plan may also be obtained from NMFS, Protected Resources Division, 222 W 7th St, Anchorage, Alaska 99513; or from the Alaska Regional Office, Protected Resources Division, 709 W. 9th St, Juneau, AK, 99802–1668.

FOR FURTHER INFORMATION CONTACT: Lisa Rotterman at 907–271–5006, email *lisa.rotterman@noaa.gov*, or Kaja Brix at 907 586 7235, e-mail *kaja.brix@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans are guidance documents that describe the actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). Development and implementation of a recovery plan helps to ensure that recovery efforts utilize limited resources effectively and efficiently. The ESA requires the development of recovery plans for listed species, unless such a plan would not promote the recovery of a particular species. The ESA requires that recovery plans incorporate the following: (1) objective, measurable criteria that, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time and costs required to implement recovery actions.

NMFS' goal is to restore endangered and threatened Steller sea lion (*Eumetopias jubatus*) populations to levels at which they are secure, self-sustaining components of their ecosystems and no longer require the protections of the ESA. The Steller sea lion was listed as a threatened species under the ESA on April 5, 1990 (55 FR 12645), due to substantial declines in the western portion of the range. Critical habitat was designated on August 27, 1993 (58 FR 45269), based on the locations of terrestrial rookeries and haulouts, the spatial extent of foraging trips, and availability of prey. In 1997, the Steller sea lion population was split into a western DPS and an eastern DPS, based on demographic and genetic dissimilarities (62 FR 30772). Due to a persistent population decline, the western DPS was reclassified as endangered at that time. The increasing eastern DPS remained classified as threatened. Through the 1990s, the western DPS continued to decline. Then, between 2000 and 2004, the western population showed a growth rate of approximately three percent per year the first recorded increase in the population since the 1970s. However, partial surveys in 2006 and 2007 suggest that the overall trend for the western population in Alaska is either stable or may be decreasing slightly. Based on recent counts, the approximate abundance of Steller sea lions in the western DPS in Alaska is currently approximately 45,000 animals. The estimated abundance of sea lions in Russia is approximately 16,000. Based on population-wide surveys in 2002, total abundance of the eastern DPS is currently estimated at between 46,000 and 58,000 animals and has been increasing at a rate of approximately three percent per year since the late 1970s.

The first Steller sea lion recovery plan was completed in December 1992 and encompassed the entire range of the species. However, the recovery plan became obsolete after the split into two DPSs in 1997. By that time, nearly all of the recovery actions recommended in the original plan were completed. In 2001, NMFS assembled a new recovery team to update the plan. The team was comprised of members representing the fishing industry, Alaska Natives, fishery and marine mammal scientists, and environmental organizations. The recovery team completed a draft revision in February 2006, then solicited peer review on the draft recovery plan in accordance with NMFS'1994 peer review policy. The team requested reviews from five scientists and managers with expertise in recovery planning, statistical analyses, fisheries, and marine mammals. In response to reviewers' comments, the team clarified the recovery criteria, added delisting criteria for the western DPS, and further refined priorities and recovery actions. In March 2006, the Team submitted the revised plan to NOAA Fisheries with unanimous endorsement from the 17 Team members.

In May 2006, NMFS released the Draft Steller Sea Lion Recovery Plan for public review and comment (71 FR 29919). On July 20, 2006, NMFS extended the customary 60–day comment period until September 1, 2006 (71 FR 41206), to provide additional time for public review and comments. NMFS received comments from 18 individuals and organizations during the 100–day comment period. We reviewed these comments and incorporated recommendations into the Draft Revised Plan.

Due to extensive public interest and the controversial nature of the recovery plan, NMFS released the Draft Revised Plan for another round of public reviews and comments (72 FR 28473, May 21, 2007). This subsequent release provided the public an opportunity to review changes made based on earlier public input and to provide further comments prior to release of a final Steller Sea Lion Recovery Plan.

NMFS received 8,058 letters of comment on the May 2007 draft of the revised plan. Comments were provided by a wide range of interested parties, including members of the fishing industry, non-governmental organizations (NGOs), members of academia, the public, and other interested parties. In response to two solicitations, from NMFS and the North Pacific Fishery Management Council (NPFMC), peer review comments were received from the Center for Independent Experts and from scientific experts commissioned by the North Pacific Research Board, at the request of the NPFMC. NMFS reviewed the comments and recommendations submitted by peer reviewers and the public on the 2007 version of the draft revised plan and modified the plan as appropriate to produce this Final Revised Steller Sea Lion Recovery Plan (Plan). NMFS's response to comments on the May 2007 draft of the plan is available at *http://alaskafisheries.noaa.gov/*

protectedresources/stellers/recovery.htm.

Several important issues were highlighted by the comments received and were addressed in the Final Revised Plan. The comments almost exclusively addressed the western DPS. The principal changes made by NMFS in response to comments included expansion of the discussion and a change to the rating of the killer whale threat, and modification of the nutritional stress discussion. Other, more minor changes were also made.

The Team had originally labeled the killer whale threat, along with fisheries and environmental variability, as ''potentially high.'' NMFS reclassified that threat to ''medium'' in the May 2007 draft plan based on new scientific evidence that had not been available when the Team developed their assessment. However, due to continuing controversy on the role that killer whales play in the recovery of Steller sea lions, the uncertainty associated with some of the data, and the need to take a precautionary approach, NMFS has reinstated the ''potentially high'' designation for the killer whale threat.

Comments were received on the nutritional stress section of the May 2007 Plan. NMFS has more fully explained some of the theories and the data on the role of nutritional stress in the recovery of Steller sea lions in the Final Revised Plan.

Overview

The Final Revised Plan contains: (1) a comprehensive review of Steller sea lion ecology, (2) a review of previous conservation actions, (3) a threats assessment, (4) biological and recovery criteria for downlisting and delisting, (4) actions necessary for the recovery of the species, and (5) estimates of time and costs for recovery.

The threats assessment concludes that the following threats to the western DPS are relatively minor: Alaska Native subsistence harvest, illegal shooting, entanglement in marine debris, disease, and disturbance from vessel traffic and scientific research. Although much has been learned about Steller sea lions and the North Pacific ecosystem, considerable uncertainty remains about the magnitude and likelihood of the following potential threats (relative impacts in parentheses): competition with fisheries (potentially high), environmental variability (potentially high), killer whale predation (potentially high), incidental take by fisheries (low), and toxic substances (medium). In contrast, no threats were identified for the eastern DPS. Although several factors that affect the western DPS also affect the eastern DPS (e.g., environmental variability, killer whale predation, toxic substances, disturbance), these threats do not appear to be limiting recovery of the population at this time.

The Final Revised Plan identifies an array of substantive actions that will foster recovery of the western DPS by addressing the broad range of threats. It highlights three actions (detailed below) that are especially important to the recovery program for the western DPS:

1. *Maintain current or equivalent fishery conservation measures:* After a long-term decline, the western DPS appears to be stabilizing. The first slowing of the decline began in the 1990s, which suggests that management measures implemented in the early 1990s may have been effective in reducing anthropogenic effects (e.g., shooting, harassment, and incidental take). The apparent population stability observed from 2000 to 2004 (surveys were conducted in 2006 and 2007 but were incomplete) appeared to be associated with comprehensive fishery management measures implemented since the late 1990s. Therefore, the current or equivalent suite of management actions (or, more specifically, the equivalent protection as afforded by the current management measures) should be maintained until substantive evidence demonstrates that these measures can be altered without inhibiting recovery.

2. *Design and implement an adaptive management program to evaluate fishery conservation measures:* A scientifically rigorous adaptive management program should be developed and implemented. A well-designed adaptive management plan has the potential to assess the relative impact of commercial fisheries on Steller sea lions and distinguish the impacts of fisheries from other threats (including killer whale predation). This program will require a robust experimental design with replication at appropriate temporal and spatial scales. It will be a challenge to construct an adaptive management plan that is statistically sound, meets the requirements of the ESA and can be implemented in a practicable manner.

3. *Continue population monitoring and research on the key threats potentially impeding sea lion recovery:* Estimates of population abundance and trends, spatial distribution, health, and essential habitat characteristics are fundamental to Steller sea lion management and recovery. Current knowledge of the effects of primary threats on these parameters is insufficient to determine their relative impacts on species recovery. Focused research is needed to assess the effects of threats on sea lion population dynamics and identify suitable mitigation measures.

Criteria for reclassification of the eastern DPS and western DPS of Steller sea lion are included in the Final Revised Plan (see above).

Time and costs for recovery actions for the western DPS are estimated at $93,840,000 for the first 5 fiscal years and $430,425,000 for full recovery. The recovery program for the eastern DPS will cost an estimated $150,000 for the first year and $1,050,000 total, including 10 years of post-delisting monitoring.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 28, 2008.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–4235 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF98

Endangered Species; File No. 1614

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the NOAA Fisheries Northeast Region, Protected Resources Division [Responsible Party: Mary Colligan], One Blackburn Drive, Gloucester, MA 01930, has been issued a permit to take dead shortnose sturgeon for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9300; fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Brandy Belmas or Jennifer Skidmore, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On September 26, 2007, notice was published in the **Federal Register** (72

FR 54643) that a request for a scientific research permit to take dead shortnose sturgeon had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

This research permit authorizes the collection, receipt and transport of 100 dead shortnose sturgeon, or parts thereof, annually. Researchers would also be authorized the receipt and transport of 50 captive bred, dead shortnose sturgeon annually from any U.S. facility authorized to hold captive sturgeon. In the case of an unusual mortality event, takes may be increased from 100 up to 1,000 animals with written approval from the Director, Office of Protected Resources. This permit does not authorize the harassment or take of any protected species (including live shortnose sturgeon). This permit authorizes the conduct of the aforementioned research over a period of five years.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 28, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–4260 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF15

Incidental Takes of Marine Mammals During Specified Activities; Marine Geophysical Surveys in the Eastern Tropical Pacific Ocean in 2007

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Lamont-Doherty Earth Observatory (L–DEO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting two marine seismic surveys in the Eastern Tropical Pacific Ocean (ETP) during 2008. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposed IHA for these activities.

DATES: Comments and information must be received no later than April 4, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing e-mail comments is *PR1.0648–XF15@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

L–DEO submitted to NMFS an application from L–DEO for the taking, by Level B harassment, of several species of marine mammals incidental to conducting, with research funding from the National Science Foundation (NSF), two marine seismic surveys in the ETP. This project would be conducted with L–DEO's new seismic vessel, the *R/V Marcus G. Langseth (Langseth)*, which would deploy different configurations of airguns and a different bottom-mapping sonar than used previously by L–DEO. The first survey was planned to be approximately 39 days between September and October 2007, and the second one approximately 6 days in between November and December 2007. However, due to scheduling issues with the vessel, the 39-day survey is rescheduled to June and August 2008, and the 6-day survey to April and May 2008.

Description of the Specified Activity

The April–May 6-day survey would examine two important types of seismic behavior of the Quebrada, Discovery, and Gofar fault systems (QDG) to

understand better the behavior of earthquakes and faults in general. The Discovery and Gofar faults generate more foreshocks in the 1,000 s before large earthquakes than anywhere else in the world. Year-long Ocean Bottom Seismometer (OBS) deployments during the survey are designed to use those foreshock sequences to answer questions about how large earthquakes nucleate. Despite accommodating the same amount of plate motion (14 cm/year, or 5.5 in/year) and being composed of similar oceanic crust, the Discovery and Quebrada faults differ in their ability to generate large earthquakes: the Discovery fault routinely generates earthquakes >5.5 in magnitude, whereas the Quebrada fault has had only one such event in the last 25 years. Refraction images of the material properties in both fault zones will show if some subtle difference (*e.g.*, in hydrothermal alteration of the rocks) is responsible for the difference in seismogenic behavior.

The June–August 39-day survey would obtain seismic reflection imaging of the internal structure of the magmatic-hydrothermal system at the fast-spreading mid-ocean ridge of the East Pacific Rise (EPR). Much is already known about processes at the EPR, but the proposed survey will provide an understanding of how the magmatic system, which is known at large spatial scales (1–100 km, or 0.62–62 mi), is coupled to volcanic/hydrothermal/biological systems, which are known at comparatively small spatial scales (0.001–1 km, or 0.00062–0.62 mi). The survey would also provide an understanding of the relationships between the temporal variations in subsurface magma systems and highly transient phenomena observed at the seafloor like faulting, volcanism, and hydrothermal venting.

The seismic surveys will involve one vessel. The source vessel *Langseth* would deploy a 36-airgun array as an energy source. However, for the EPR study, two identical two-string sources will be firing alternately, so that no more than 18 airguns will be firing at any time, with a maximum discharge volume of 3,300 in^3. The *Langseth* would also tow the receiving system, which consists of four 6-km (3.73-mi) hydrophone streamers. For the QDG study, no more than 27 airguns would be fired at any time, with a maximum discharge volume of 4,950 in^3. The *Langseth* would also tow the receiving system, a single 8-km (4.97-mi) streamer, and would also deploy 40 long-term Ocean Bottom Seismometers (OBSs) that would be recovered 1 year after deployment, and another 8–10 short-term OBSs on each line that will be retrieved after the seismic surveys are completed.

The EPR and QDG programs would consist of a maximum of approximately 7,992 km (4,967 mi) and 654 km (406 mi) of surveys, respectively.

The proposed QDG seismic survey would last for approximately 6 days, and the proposed EPR seismic survey would last for approximately 39 days. All activities would be conducted in the period between April and August, 2008. The exact dates of the activities will be depend on ship scheduling, weather conditions, repositioning, streamer operations and adjustments, airgun deployment, or the need to repeat some lines if data quality is substandard.

The QDG seismic survey would also occur in international waters of the ETP, approximately 2,265 km (1,408 mi) off the coast of Ecuador and approximately 1,300 km (808 mi) west of the Galápagos Islands. The overall area within which the seismic survey would occur is located between 3° and 5° S, and between 103° and 106° W. Water depths in the survey area are more than 3,000 m (9,843 ft) deep. The EPR seismic survey would take place in international waters of the ETP, offshore from Mexico and Central America at the East Pacific Rise. The closest land mass to this survey is Mexico, located approximately 890 km (553 mi) away. The overall area within which the seismic survey will occur is located between 8.3° and 10.2° N, and between 104.1° and 104.5° W. The survey would take place in water more than 2,000 m (6,562 ft) deep.

In addition to the operations of the airgun array, a multi-beam bathymetric sonar would be operated from the source vessel continuously throughout the entire cruise, and a lower-energy sub-bottom profiler will also be operated during most of the survey.

Vessel Specifications

The *Langseth* would tow the airgun array and, at times, up to four 6-km (3.7-mi) streamers containing hydrophones along predetermined lines. The operation speed during seismic acquisition is typically 7.4—9.3 km/h (4—5 kt). When not towing seismic survey gear, the *Langseth* can cruise at 20—24 km/h (11—13 kt).

The *Langseth* would also serve as the platform from which vessel-based visual marine mammal observers will watch for marine mammals before and during airgun operations. The characteristics of the *Ewing* that make it suitable for visual monitoring are described under Monitoring, later in this document.

Acoustic Source Specifications

Airguns

The airgun array to be used will consist of 36 airguns, with maximum total discharge volume of approximately 6,600 in^3. The airguns will comprise a mixture of Bolt 1500LL and Bolt 1900LLX airguns. The array will consist of four identical linear arrays or ''strings.'' Each string would have ten airguns; the first and last airguns in the strings are spaced 16 m (52.5 ft) apart. Nine airguns would be fired simultaneously, while the tenth is kept in reserve as a spare, to be turned on in case of failure of another airgun. Two of the four strings would be fired during the EPR survey (18 airguns), and three strings would be fired during the QDG survey (27 airguns). The airgun strings would be distributed across an approximate area of 24 × 16 m (78.7 × 52.5 ft) behind the *Langseth* and would be towed approximately 50–100 m (164–328 ft) behind the vessel. The firing pressure of the array is 2,000 psi. During firing, a brief (~0.1 s) pulse of sound is emitted. During the EPR survey, the shots would be emitted at intervals of ~15 s, corresponding to a shot interval of ~37.5 m (123 ft). During the QDG survey, the shots would be emitted at intervals of ~60 s, corresponding to a shot interval of ~150 m (492 ft). The airguns would be towed at a depth of 7 m (23 ft) during both the QDG and the EPR surveys. The depth at which the source is towed affects the maximum near-field output and the shape of its frequency spectrum. In deeper water, the effective source level for sound propagating in near-horizontal directions is higher than in shallow water; however, the nominal source levels of the array at various tow depths are nearly identical.

Because the actual source is a distributed sound source (up to 27 airguns in these surveys) rather than a single point source, the highest sound levels measurable at any location in the water would be less than the nominal source level. In addition, the effective source level for sound propagating in near-horizontal directions would be substantially lower than the nominal source level applicable to downward propagation because of the directional nature of the sound from the airgun array.

The specifications of each source planned for use are described in Table 1.

TABLE 1.—L–DEO AIRGUN CONFIGURATION AND SPECIFICATION OF EACH SOURCE PLANNED FOR USE IN THE PROPOSED PROJECTS

	18-Airgun array (2 strings)	27-Airgun array (3 strings)
Energy source	18, 2,000 psi Bolt airguns of 40–360 in^3	27, 2,000 psi Bolt airguns of 40–360 in^3.
Source output (downward)	0-pk: 252 dB re 1 microPa-m; pk-pk: 259 dB re 1 microPa-m.	0-pk: 256 dB re 1 microPa-m; pk-pk: 262 dB re 1 microPa-m.
Air discharge volume	Approximately 3,300 in^3	Approximately 4,950 in^3.
Towing depth of energy source	7 m (23 ft)	7 m (23 ft).
Dominant frequency components	0–188 Hz	0–188 Hz.

A detailed discussion of the characteristics of airgun pulses has been provided in L–DEO's application, and in previous **Federal Register** notices (see 69 FR 31792 (June 7, 2004) or 69 FR 34996 (June 23, 2004)). Reviewers are referred to those documents for additional information.

Received sound levels have been predicted by L–DEO in relation to distance and direction from the airguns for the 36-airgun array with 18 and 27 airguns firing and for a single 1900LL 40-in^3 airgun, which would be used during power downs.

The predicted sound contours are shown as sound exposure levels (SEL) in decibels (dB) re 1 $microPa^2$-s. SEL is a measure of the received energy in the pulse and represents the sound pressure level (SPL) that would be measured if the pulse energy were spread evenly across a 1-s period. Because actual seismic pulses are less than 1-s in duration, this means that the SEL value for a given pulse is lower than the SPL calculated for the actual duration of the pulse. The advantage of working with SEL is that the SEL measure accounts for the total received energy in the pulse, and biological effects of pulsed sounds probably depend mainly on pulse energy. SPL for a given pulse depends greatly on pulse duration. A pulse with a given SEL can be long or short depending on the extent to which propagation effects have ''stretched'' the pulse duration. The SPL will be low if the duration is long and higher if the duration is short, even though the pulse energy (and presumably the biological effects) is the same.

Although SEL may be a better measure than SPL when dealing with biological effects of pulsed sound, SPL is the measure that has been most commonly used in studies of marine mammal reactions to airgun sounds and in NMFS practice concerning levels above which ''taking'' might occur. SPL is often referred to as rms or ''root mean square'' pressure, averaged over the pulse duration. As noted above, the rms received levels that are used as impact criteria for marine mammals are not directly comparable to pulse energy (SEL). The SPL (i.e., rms sound pressure) for a given pulse is typically 10–15 dB higher than the SEL value for the same pulse as measured at the same location (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). For this project, L–DEO assumes that rms pressure levels of received seismic pulses would be 10 dB higher than the SEL values predicted by L–DEO's model. Thus, the L–DEO assumes that 170 dB SEL can be viewed as 180 dB rms. NMFS considers that this assumption is valid.

It should be noted that neither the SEL nor the SPL (rms) measure is directly comparable to the peak or peak-to-peak pressure levels normally used by geophysicists to characterize source levels of airguns. Peak and peak-to-peak pressure levels for airgun pulses are always higher than the rms dB referred to in much of the biological literature (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). For example, a measured received level of 160 dB rms in the far field would typically correspond to a peak measurement of 170–172 dB re 1 microPa, and to a peak-to-peak measurement of 176–178 dB, as measured for the same pulse received at the same location (Greene *et al.*, 1997; McCauley *et al.*, 1998; 2000). The precise difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors. However, the rms level is always lower than the peak or peak-to-peak level, and higher than the SEL value, for an airgun-type source.

Empirical data concerning 190, 180, 170, and 160 dB (rms) isopleths in deep and shallow water were acquired for various airgun configurations during the acoustic calibration study of the *Ewing's* 20-airgun, 8,600-in^3 array in 2003 (Tolstoy *et al.*, 2004a; 2004b). The results showed that radii around the airguns where the received level was 180 dB re 1 microPa (rms), the onset point for estimating temporary hearing threshold shift (TTS) in cetaceans (NMFS, 2000), varied with water depth. Similar depth-related variation is likely for 190-dB, the onset point used for estimating TTS in pinnipeds, although these were not measured. The empirical data indicated that, for deep water (>1,000 m, or 3,280 ft), the L-DEO model overestimates the received sound levels at a given distance (Tolstoy *et al.*, 2004a; 2004b). However, to be conservative, the *Ewing*'s modeled distances would be applied to deep-water areas during the proposed study. As very few, if any, mammals are expected to occur below 2,000 m (6,562 ft), this depth was used as the maximum relevant depth.

For the proposed programs in the ETP, the modeled distances are used to estimate deep-water mitigation safety zones; no correction factors are necessary because all activities will take place in deep (> 2,000 m, or 6,562 ft) water. The 180 and 190 dB re 1 microPa (rms) distances define the safety criteria, used for mitigation for cetaceans and pinnipeds, respectively.

The predicted distances to which sound levels higher than 190, 180, and 160 dB re 1 microPa (rms) could be received, based on the model calculation, are shown in Table 2.

TABLE 2.—PREDICTED DISTANCES TO WHICH SOUND LEVELS HIGHER THAN 190, 180, AND 160 DB RE 1 MICROPA (RMS) COULD BE RECEIVED FROM THE AIRGUN ARRAY AND SINGLE AIRGUN PLANNED FOR USE DURING THE SURVEYS IN THE ETP

Source and volume	Min. water depth (m)	Predicted RMS radii (m)		
		190 dB	180 dB	160 dB
Single Bolt airgun (40 in^3)	3000	12	40	385
36-airgun array: 3 strings (4950 in^3)	3000	200	650	4400
36-airgun array: 2 strings (3300 in^3)	2000	140	450	3800

Bathymetric Sonar and Sub-Bottom Profiler

Along with the airgun operations, two additional acoustical data acquisition systems would be operated during parts of the *Langseth*'s cruises. The ocean floor would be mapped with the 12-kHz Kongsberg Simrad EM 120 MBB sonar, and a 2.5–7 kHz sub-bottom profiler would also be operated along with the MBB sonar. These sound sources would be operated from the *Langseth*, at times simultaneously with the airgun array.

The Kongsberg Simrad EM 120 operates at 11.25–12.6 kHz and would be mounted in a sonar pod hung below the hull of the *Langseth.* The beamwidth is 1° fore-aft and 150° athwartship. The maximum source level is 242 dB re 1 microPa at 1 m (rms). For deep-water operation, each ''ping'' consists of nine successive fan-shaped transmissions, each 15 ms in duration and each ensonifying a sector that extends 1° fore-aft. The nine successive transmissions span an overall cross-track angular extent of about 150°, with 16 ms gaps between the pulses for successive sectors. A receiver in the overlap area between two sectors would receive two 15-ms pulses separated by a 16-ms gap. In shallower water, the pulse duration is reduced to 2 ms, and the number of transmit beams is also reduced. The ping interval varies with water depth, from ~5 s at 1,000 m (3,280 ft) to 20 s at 4,000 m (13,123 ft).

The sub-bottom profiler is normally operated to provide information about the sedimentary features and the bottom topography that is simultaneously being mapped by the MBB sonar. The energy from the sub-bottom profiler is directed downward by a 3.5-kHz transducer in the hull of the *Langseth*. The output varies with water depth from 50 watts in shallow water to 800 watts in deep water. Pulse interval is 1 second but a common mode of operation is to broadcast five pulses at 1-s intervals followed by a 5-s pause.

Description of Marine Mammals in the Activity Area

A total of 34 cetacean species and 6 species of pinnipeds are known to or may occur in the ETP. Of the 34 cetacean species, 27 are likely to occur in the proposed survey area. Five of those 27 cetacean species are listed under the U.S. Endangered Species Act (ESA) as endangered: Sperm whale (*Physeter macrocephalus*), humpback whale (*Megaptera novaeangliae*), blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*), and sei whale (*B. borealis*).

The other 22 species that are likely to occur in the proposed survey areas are: Minke whale (*B. acutorostrata*), Bryde's whale (*B. edeni*), Pygmy sperm whale (*Kogia breviceps*), Dwarf sperm whale (*K. simus*), Cuvier's beaked whale (*Ziphius cavirostris*), Longman's beaked whale (*Indopacetus pacificus*), Pygmy beaked whale (*Mesoplodon peruvianus*), Ginkgo-toothed beaked whale (*M. ginkgodens*), Blainville's beaked whale (*M. densirostris*), Rough-toothed dolphin (*Steno bredanensis*), Bottlenose dolphin (*Tursiops truncatus*), Pantropical spotted dolphin (*Stenella attenuata*), Spinner dolphin (*S. longirostris*), Striped dolphin (*S. coeruleoalba*), Fraser's dolphin (*Lagenodelphis hosei*), Short-beaked common dolphin (*Delphinus delphis*), Risso's dolphin (*Grampus griseus*), Melon-headed whale (*Peponocephala electra*), Pygmy killer whale (*Feresa attenuata*), False killer whale (*Pseudorca crassidens*), Killer whale (Orcinus orca), and Short-finned pilot whale (*Globicephala macrorhynchus*).

A detailed description of the biology, population estimates, and distribution and abundance of these species are provided in the L–DEO's IHA application. Additional information regarding the stock assessment of these species are be found in NMFS Pacific Marine Mammal Stock Assessment Report (Carretta *et al.*, 2007), and can also be accessed via the following URL link: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2006.pdf*.

The most extensive regional distribution and abundance data that encompass the entire study area come primarily from multi-year vessel surveys conducted in the wider ETP by the NMFS Southwest Fisheries Science Center. Information on the distribution of cetaceans inhabiting the ETP has been summarized in several studies (e.g., Polacheck, 1987; Wade and Gerrodette, 1993; Ferguson and Barlow, 2001), and is also described in detail in the L–DEO's IHA application.

Seven species, although present in the wider ETP, likely would not be found in the proposed seismic survey areas. These species are: Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), Baird's beaked whales (*Berardius bairdii*), Long-beaked common dolphins (*Delphinus capensis*), Dusky dolphins (*L. obscurus*), southern right whale dolphins (*Lissodelphis peronii*), Burmeister's porpoises (*Phocoena spinipinnis*), and long-finned pilot whales (*Globicephala melas*) (Leatherwood *et al.*, 1991; Van Waerebeek *et al.*, 1991; Heyning and Perrin, 1994; Brownell and Clapham, 1999; Ferguson and Barlow, 2001; Olson and Reilly, 2002). Accordingly, those species are not considered any further.

Six species of pinnipeds are known to occur in the ETP: The Guadalupe fur seal (*Arctocephalus townsendi*), California sea lion (*Zalophus californianus*), Galápagos sea lion (*Z. wollebaeki*), Galápagos fur seal (*A. galapagoensis*), southern sea lion (Otaria flavescens), and South American fur seal (*A. australis*). However, pinnipeds likely would not be encountered during the proposed seismic surveys. Therefore, they are not considered further here.

Summary of Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and at least in theory, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995). These effects are discussed below, but also in further detail in Appendix B of L–DEO's application.

The potential effects of airguns discussed below are presented without consideration of the proposed

mitigation measures described below. When these measures are taken into account, it is unlikely that this project would result in temporary, or especially, permanent hearing impairment or any non-auditory physical or physiological effects.

Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. A summary of the characteristics of airgun pulses is provided in Appendix B of L–DEO's application. Studies have also shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response (tolerance) (Appendix B(e)). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times mammals of all three types have shown no overt reactions. In general, pinnipeds and small odontocetes seem to be more tolerant of exposure to airgun pulses than are baleen whales.

Masking

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are very few specific data of relevance. Some whales are known to continue calling in the presence of seismic pulses. Their calls can be heard between the seismic pulses (*e.g.*, Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004). Although there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994), a more recent study reports that sperm whales off northern Norway continued calling in the presence of seismic pulses (Madsen *et al.*, 2002). That has also been shown during recent work in the Gulf of Mexico (Tyack *et al.*, 2003; Smultea *et al.*, 2004). Masking effects of seismic pulses are expected to be negligible in the case of the smaller odontocete cetaceans, given the intermittent nature of seismic pulses. Dolphins and porpoises commonly are heard calling while airguns are operating (*e.g.*, Gordon *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a; 2005b). Also, the sounds important to small odontocetes are predominantly at much higher frequencies than are airgun sounds. Masking effects, in general, are discussed further in LDEO's application Appendix B (d).

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement.

Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors. If a marine mammal does react briefly to an underwater sound by slightly changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or the species as a whole. However, if a sound source displaces a marine mammal(s) from an important feeding or breeding area for a prolonged period, impacts on the animal(s) could be significant.

There are many uncertainties in predicting the quantity and types of impacts of noise on marine mammals. NMFS uses exposures to 180 and 190 dB re 1 microPa rms to estimate the number of animals that may be harassed by a particular sound source in a given area (and also uses those SPLs for use in the development of shutdown zones for mitigation). These estimates are based on behavioral observations during studies of several species. However, information is lacking for many species. Detailed studies have been done on humpback, gray, and bowhead whales, and on ringed seals. Less detailed data are available for some other species of baleen whales, sperm whales, and small toothed whales.

Hearing Impairment and Other Physical Effects

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very strong sounds, but there has been no specific documentation of this for marine mammals exposed to sequences of airgun pulses. NMFS's incidental take authorizations generally protect against exposure to impulsive sounds greater than 180 and 190 dB re 1 microPa (rms), for cetaceans and pinnipeds, respectively (NMFS, 2000). Those criteria have been used in defining the safety (shut down) radii planned for the proposed seismic surveys.

Several aspects of the monitoring and mitigation measures proposed for this project are designed to detect marine mammals occurring near the airguns to avoid exposing them to sound pulses that might, at least in theory, cause hearing impairment (see Mitigation and Monitoring section below). In addition, many cetaceans are likely to show some avoidance of the area with high received levels of airgun sound. In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects may also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. It is possible that some marine mammal species (*e.g.*, beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. It is unlikely that any effects of these types would occur during the proposed project given the brief duration of exposure of any given mammal, and the planned monitoring and mitigation measures (see below).

Strandings and Mortality

Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). Airgun pulses are less energetic and have slower rise times, and there is no proof that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises involving mid-frequency sonar and, in one case, an L–DEO seismic survey, has raised the possibility that beaked whales exposed to strong pulsed sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding.

Seismic pulses and mid-frequency sonar pulses are quite different. Sounds produced by airgun arrays are broadband with most of the energy below 1 kHz. Typical military mid-frequency sonars operate at frequencies of 2–10 kHz, generally with a relatively narrow bandwidth at any one time. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar pulses can, in special circumstances, lead to physical damage and mortality (NOAA and USN, 2001; Jepson *et al.*, 2003; Fernandez *et al.*, 2005a), even if only indirectly,

suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity pulsed sound.

In September, 2002, there was a stranding of two Cuvier's beaked whales in the Gulf of California, Mexico, when the L–DEO vessel *Maurice Ewing* was operating a 20 airgun, 8,490 in^3 airgun array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, that together with the incidents involving beaked whale strandings near naval exercises suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales. No injuries of beaked whales are anticipated during the proposed study, due to the proposed monitoring and mitigation measures.

Possible Effects of Multibeam Bathymetric (MBB) Sonar Signals

The Kongsberg Simrad EM 120 12-kHz sonar will be operated from the source vessel at some times during the planned study. As discussed above, sounds from the MBB sonar are very short pulses, occurring for 15 ms once every 5–20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBB sonar is at frequencies centered at 12 kHz. The beam is narrow (1°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of nine successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Kongsberg Simrad EM 120 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBB sonar emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to be subjected to sound levels that could cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans (1) generally have a longer pulse duration than the Kongsberg Simrad EM 120, and (2) are often directed close to horizontally vs. downward for the Kongsberg Simrad EM 120. The area of possible influence of the EM 120 is much smaller-a narrow band below the source vessel. The duration of exposure for a given marine mammal can be much longer for a Navy sonar. Possible effects of sonar on marine mammals are outlined below.

Possible Effects of Sub-Bottom Profiler Signals

A sub-bottom profiler would be operated from the source vessel during the planned study. As discussed before, sounds from the sub-bottom profiler are very short pulses, occurring for 1, 2, or 4 ms once every second. Most of the energy in the sound pulses emitted by this sub-bottom profiler is at mid frequencies, centered at 3.5 kHz. The beam width is approximately 30° and is directed downward.

Sound levels have not been measured directly for the sub-bottom profiler used by the *Langseth,* but Burgess and Lawson (2000) measured sounds propagating more or less horizontally from a similar unit with similar source output (205 dB re 1 microPa at 1° m). The 160 and 180 dB re 1 microPa (rms) radii, in the horizontal direction, were estimated to be, respectively, near 20 m (65.6 ft) and 8 m (26.2 ft) from the source, as measured in 13 m (42.7 ft) water depth. The corresponding distances for an animal in the beam below the transducer would be greater, on the order of 180 m (591 ft) and 18 m (59 ft), respectively, assuming spherical spreading.

The sub-bottom profiler on the *Langseth* has a stated maximum source level of 204 dB re 1 microPa at 1 m. Thus, the received level would be expected to decrease to 160 and 180 dB about 160 m (525 ft) and 16 m (53 ft) below the transducer, respectively, again assuming spherical spreading. Corresponding distances in the horizontal plane would be lower, given the directionality of this source (30° beam width) and the measurements of Burgess and Lawson (2000).

Numbers of Marine Mammals Estimated to be Taken

All anticipated takes would be takes by Level B harassment, involving temporary changes in behavior. The proposed mitigation measures will prevent the possibility of injurious takes. The estimates of take are based on consideration of the number of marine mammals that might be disturbed by approximately 654 km (406 mi) of seismic surveys at the QDG study site and approximately 7,992 km (4,967 mi) of seismic surveys at the EPR study site in the ETP.

The anticipated radii of influence of the MBB sonar are less than those for the airgun array. It is assumed that, during simultaneous operations of the airgun array and sonar, any marine mammals close enough to be affected by the sonar would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the sonar, marine mammals are not expected to be ''taken'' by the sonar given its characteristics (*e.g.*, narrow downward-directed beam) and other considerations described above. Therefore, no additional allowance is included for animals that might be affected by sound sources other than airguns.

There is some uncertainty about how representative the data are for the QDG survey because of the time of year and the validity of the assumptions used below to estimate the potential take by harassment. The data derived from marine mammals surveys that were conducted from the time of year that is different from the proposed QDG seismic surveys. However, the approach used here is based on the best available data. To provide some allowance for those uncertainties, ''best estimates'' and ''maximum estimates'' of the numbers potentially affected have been derived based on the average and maximum estimates of densities reported by Ferguson and Barlow (2001) for the survey blocks encompassing each project study area as presented in Tables 3 and 4 of L–DEO's application.

Basis for Take Estimates

As discussed above, several extensive marine mammal surveys have been conducted in the ETP over numerous years. The most comprehensive data available for the regions encompassing the proposed survey areas are the Ferguson and Barlow (2001) data collected from late July to early December 1986–1996.

Because the proposed QDG survey is planned for April–May 2008, data collected by Ferguson and Barlow (2001) in July–December may not be as representative for the QDG survey. Again, however, it is the best available information. For some species, the densities derived from past surveys may not be representative of the densities that would be encountered during the actual proposed seismic studies. For example, the density of cetaceans sighted during L–DEO's 2003 Hess Deep survey was considerably lower (only one sighting) than the densities anticipated to occur there based on the Ferguson and Barlow (2001) data. The Hess Deep survey occurred in mid-July, and was apparently not well

represented by the Ferguson and Barlow (2001) data collected during the fall, beginning just after the Hess Deep survey.

Despite the above caveats, the Ferguson and Barlow (2001) data still represent the best available data for estimating numbers of animals potentially exposed to the proposed seismic sounds. Average and maximum densities for marine mammals from Ferguson and Barlow (2001) were calculated for each of the project areas based on encompassing and adjacent survey blocks. Maximum densities were either the highest estimated density in any of the blocks or, if that number was zero, the average group size for that species. The densities reported in Ferguson and Barlow (2001) were corrected for both detectability [f(0)] and availability [g(0)] biases, and therefore, are relatively unbiased.

Estimated Number of Takes by Harassment

The number of individuals that may be exposed to airgun sounds with received levels higher than 160 dB re 1 microPa (rms) on one or more occasions can be estimated by considering the total marine area that would be within the 160–dB radius around the operating airgun array on at least one occasion. In the QDG survey, the proposed seismic lines do not run parallel to each other in close proximity, and only one transect line might be surveyed a second time, which minimizes the number of times an individual mammal may be exposed during the survey. In the EPR survey, the seismic lines are parallel and in close proximity, and the entire grid may be surveyed more than twice, which may result in individuals being exposed on two or more occasions. It is not known how much time will pass between the first and the second transit along each line, so it is also possible that different marine mammals could occur in the area during the second pass. Thus, the best estimates in this section are based on a single pass of all survey lines (including turns), and maximum estimates are based on maximum densities, *i.e.*, the highest single-block density among all of the blocks used in the calculations. Tables 3 and 4 show the best and maximum estimates of the number of marine mammals that could potentially be affected during the EPR and QDG seismic surveys, respectively.

The number of individuals potentially exposed to 160 dB re 1 microPa (rms) or higher in each area was calculated by multiplying the expected species density, either ''mean'' (*i.e.*, best estimate) or ''maximum'' (maximum estimate) times by the anticipated minimum area to be ensonified to that level during airgun operations.

TABLE 3.—ESTIMATES OF THE NUMBERS OF DIFFERENT INDIVIDUAL MARINE MAMMALS THAT MIGHT BE EXPOSED TO SOUND LEVELS > 160 DB RE 1 MICROPA (RMS) DURING L–DEO'S PROPOSED EPR SEISMIC PROGRAM IN THE ETP. THE PROPOSED SOUND SOURCE IS AN 18-AIRGUN ARRAY WITH A TOTAL VOLUME OF 3,300 IN^3

["NA" indicates that no percentage of population data were available due to the lack of population estimate]

	Number of individuals exposed to SPL > 160 dB re 1 microPa (rms)		
Species	Best estimate	Percent of regional population based on best estimate	Maximum estimate
Humpback whale	0	0.00	2
Minke whale	0	NA	1
Bryde's whale	3	0.02	7
Sei whale	0	NA	2
Fin whale	0	0.00	2
Blue whale	0	0.03	1
Sperm whale	2	0.01	4
Pygmy sperm whale	0	NA	1
Dwarf sperm whale	66	0.59	87
Cuvier's beaked whale	16	0.08	30
Longman's beaked whale	0	0.00	4
Pygmy beaked whale	0	NA	4
Blainville's beaked whale	0	NA	4
Mesoplodon sp	8	0.03	.....
Rough-toothed dolphin	27	0.02	109
Bottlenose dolphin	18	0.01	38
Spotted dolphin	697	0.03	1327
Spinner dolphin	342	0.02	695
Striped dolphin	303	0.02	792
Fraser's dolphin	5	0.00	47
Short-beaked common dolphin	7	0.00	835
Risso's dolphin	18	0.01	53
Melon-headed whale	5	0.01	30
Pygmy killer whale	9	0.02	46
False killer whale	3	0.01	8
Killer whale	1	0.01	3
Short-finned pilot whale	20	0.01	41

TABLE 4.—ESTIMATES OF THE NUMBERS OF DIFFERENT INDIVIDUAL MARINE MAMMALS THAT MIGHT BE EXPOSED TO SOUND LEVELS > 160 DB RE 1 MICROPA (RMS) DURING L-DEO'S PROPOSED QDG SEISMIC PROGRAM IN THE ETP. THE PROPOSED SOUND SOURCE IS A 27-AIRGUN ARRAY WITH A TOTAL VOLUME OF 4,950 IN^3

["NA" indicates that no percentage of population data were available due to the lack of population estimate]

	Number of individuals exposed to SPL > 160 dB re 1 microPa (rms)		
Species	Best estimate	Percent of regional population based on best estimate	Maximum estimate
Humpback whale	0	0.00	1
Minke whale	0	NA	1
Bryde's whale	6	0.05	24
Sei whale	0	NA	2
Fin whale	0	0.00	2
Blue whale	1	0.04	3
Sperm whale	4	0.01	13
Pygmy sperm whale	0	NA	1
Dwarf sperm whale	0	0.00	2
Cuvier's beaked whale	48	0.24	81
Longman's beaked whale	0	0.00	3
Pygmy beaked whale	0	NA	3
Blainville's beaked whale	0	NA	3
Mesoplodon sp	7	0.03	.....
Rough-toothed dolphin	24	0.02	166
Bottlenose dolphin	17	0.01	48
Spotted dolphin	468	0.02	1236
Spinner dolphin	226	0.01	431
Striped dolphin	482	0.03	599
Fraser's dolphin	43	0.01	151
Short-beaked common dolphin	30	0.00	2089
Risso's dolphin	16	0.01	68
Melon-headed whale	7	0.01	38
Pygmy killer whale	3	0.01	16
False killer whale	11	0.03	47
Killer whale	1	0.01	2
Short-finned pilot whale	35	0.02	105

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160–dB buffer around each seismic line and then calculating the total area within the buffers. Areas where overlap occurred (because of intersecting lines) were included only once to determine the minimum area expected to be ensonified to higher than 160 dB re 1 microPa at least once.

Applying the approach described above, 2,492 km^2 (923 mi^2) would be within the 160-dB isopleth on one or more occasions during the EPR survey, and 2,911 km^2 (1,224 mi^2) would be ensonified on one or more occasions during the QDG survey. This approach does not allow for turnover in the marine mammal populations in the study areas during the course of the studies. That might underestimate actual numbers of individuals exposed, although the conservative distances used to calculate the area may offset this. In addition, the approach assumes that no cetaceans would move away or toward the trackline as the *Langseth* approaches in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to 160 dB re 1 microPa (rms) or higher.

The ''best estimate'' of the number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher during the EPR survey includes 2 endangered whales (both sperm whales), 24 beaked whales, and 3 Bryde's whales. Pantropical spotted, spinner, and striped dolphins are estimated to be the most common species exposed; the best estimates for those species are 697, 342, and 303, respectively. Estimates for other species are lower (Table 3).

The ''best estimate'' of the number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher during the QDG survey includes 5 endangered whales (4 sperm whales and 1 blue whale), 55 beaked whales, and 6 Bryde's whales. Striped, spotted, and spinner dolphins are estimated to be the most common species exposed; the best estimates for those species are 482, 468, and 226, respectively. Estimates for other species are lower (Table 4).

The ''best estimate'' of the total number of individual marine mammals that might be exposed to seismic sounds with received levels of 160 dB re 1 microPa (rms) or higher for both surveys, along with the percentage of regional population, is listed in Table 5. It includes two ESA-listed species (6 sperm whales and 1 blue whale), 79 beaked whales, and 9 Bryde's whales. Striped, spotted, and spinner dolphins are estimated to be the most common species exposed; the best estimates for those species are 785, 1,165, and 568, respectively. Estimates for other species are lower (Table 5).

TABLE 5.—ESTIMATES OF THE NUMBERS OF DIFFERENT INDIVIDUAL MARINE MAMMALS THAT MIGHT BE EXPOSED TO SOUND LEVELS > 160 DB RE 1 MICROPA (RMS) DURING L–DEO'S TWO PROPOSED SEISMIC PROGRAM IN THE ETP

["NA" indicates that no percentage of population data were available due to the lack of population estimate]

Total number of individuals exposed to SPL > 160 dB re 1 microPa (rms)		
Species	Best estimate	Percent of regional population based on best estimate
Humpback whale	0	0.00
Minke whale	0	NA
Bryde's whale	9	0.07
Sei whale	0	NA
Fin whale	0	0.00
Blue whale	1	0.04
Sperm whale	6	0.02
Pygmy sperm whale	0	NA
Dwarf sperm whale	66	0.59
Cuvier's beaked whale	64	0.32
Longman's beaked whale	0	0.00
Pygmy beaked whale	0	NA
Blainville's beaked whale	0	NA
Mesoplodon sp	15	0.06
Rough-toothed dolphin	51	0.04
Bottlenose dolphin	35	0.02
Spotted dolphin	1,165	0.05
Spinner dolphin	568	0.03
Striped dolphin	785	0.05
Fraser's dolphin	48	0.01
Short-beaked common dolphin	37	0.00
Risso's dolphin	34	0.02
Melon-headed whale	12	0.02
Pygmy killer whale	12	0.03
False killer whale	14	0.04
Killer whale	2	0.02
Short-finned pilot whale	55	0.03

Potential Impacts to Subsistence Harvest of Marine Mammals

The proposed activities will not have any impact on the availability of the species or stocks for subsistence use described in section 101(a)(5)(D)(i)(II).

Potential Impacts on Habitat and Prey

The proposed seismic survey would not result in any permanent or significant impact on habitats used by marine mammals, or to the food sources they use. The main impact issue associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals, as discussed above. The following sections briefly review effects of airguns on fish and invertebrates, and more details are included in Appendices C and D of the L–DEO's IHA application, respectively.

Effects on Fish

There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (e.g., startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (i.e., mortality).

The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some specific amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population is unknown; however, it likely depends on the number of individuals affected and whether critical behaviors involving sound (e.g. predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected. McCauley *et al.* (2003) found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of ''pink snapper'' (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) found that received sound exposure levels of 177 dB re 1 microPa^2-s caused no hearing loss in broad whitefish (*Coreogonus nasus*) . During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airgun arrays (less than 400 Hz in the study by McCauley *et al.* (2003) and less than 200 Hz in Popper *et al.* (2005)) likely did not propagate to the fish because the water in the study areas was very shallow (approximately 9 m (29.5 ft) in the former case and less than 2 m (6.6 ft) in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Except for these two studies, at least with airgun-generated sound treatments, most contributions rely on rather subjective assays such as fish ''alarm'' or ''startle response'' or changes in catch rates by fishers. These observations are important in that they attempt to use the levels of exposures that are likely to be encountered by most free-ranging fish in actual survey areas. However, the associated sound stimuli are often poorly described, and the biological assays are varied (Hastings and Popper, 2005).

According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.*, 1987; La Bella *et al.*, 1996; Santulli *et al.*, 1999; McCauley *et al.*, 2000a; 2000b; 2003; Bjarti, 2002; Hassel *et al.*, 2003; Popper *et al.*, 2005).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.*, 1996; Dalen *et al.*, 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. Saetre and Ona (1996) applied a ''worst-case scenario'' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.*, 1994; McCauley *et al.*, 2000a; 2000b). The periods necessary for the biochemical changes to return to normal are variable, and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Santulli *et al.*, 1999, Wardle *et al.*, 2001, Hassel *et al.*, 2003). Typically, in these studies fish exhibited a sharp ''startle'' response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.*, 2001).

For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.*, 1994; Christian *et al.*, 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.*, 2003; 2004; DFO, 2004) and adult cephalopods (McCauley *et al.*, 2000a; 2000b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.*, 2004), but there is no evidence to support such claims.

Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Any primary and secondary stress responses (*i.e.*, changes in haemolymph levels of enzymes, proteins, etc.) of crustaceans after exposure to seismic survey sounds appear to be temporary (hours to days) in studies done to date. The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and prey availability to marine mammals. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (*e.g.*, squid in McCauley *et al.*, 2000a; 2000b). In other cases, no behavioral impacts were noted (*e.g.*, crustaceans in Christian *et al.*, 2003; 2004; DFO, 2004).

Effects on Marine Mammal Habitat

The effects of the planned activity on marine mammal habitats and food resources are expected to be negligible, as described above. A small minority of the marine mammals that are present near the proposed activity may be temporarily displaced as much as a few kilometers by the planned activity.

During the proposed survey, most marine mammals will be dispersed throughout the study area. However, concentrations of marine mammals and/or marine mammal prey species have been reported to occur in and near the proposed study area at the time of year when the seismic programs are planned. The countercurrent thermocline ridge at approximately 10° N (in the EPR study area) has been reported to be an important area to cetacean species, as has the Costa Rica Dome, located several hundreds of kilometer to the east of the study area. Although these areas are thought to be important feeding grounds for some marine mammal species, they are not considered critical feeding areas for any of the species that are found there at that time of year.

The proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations, since operations at the various sites will be limited in duration.

Proposed Monitoring and Mitigation Measures

Monitoring

L–DEO proposes to sponsor marine mammal monitoring during the present project, in order to implement NMFS's proposed mitigation and monitoring measures.

(1) Proposed Safety Zones

Received sound levels have been predicted by L–DEO in relation to distance and direction from the airguns for the 36-airgun array with 18 and 27 airguns firing and for a single 1900LL 40 in^3 airgun, which will be used during power downs. Those corresponding radii were described above under *Acoustic Source Specifications* and are set out in Table 2 above. A detailed description of the modeling effort is provided in Appendix A of the L–DEO's IHA application.

If marine mammals are detected within or about to enter the relevant safety zone (180 dB for cetaceans, 190 dB for pinnipeds), the airguns will be powered down (or shut down if necessary) immediately.

(2) Vessel-based Visual Monitoring

Vessel-based marine mammal observers (MMOs) will be on board the seismic source vessel, and they will watch for marine mammals near the vessel during daytime airgun operations and during start-ups of airguns at night from power-down only. MMOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (a shutdown lasting more than 30 minutes). When feasible, MMOs will also make observations during daytime periods when the seismic systems are not operating for comparison of animal abundance and behavior. Based on MMO observations, airguns will be powered down (see below) or, if necessary, shut down completely, when marine mammals are observed within or about to enter the relevant safety zone (see below).

MMOs will be appointed by L–DEO, with NMFS approval. At least one MMO will monitor the safety zone during daytime airgun operations and any nighttime startups. MMOs will work in shifts of 4 hour duration or less. The vessel crew will also be instructed to assist in detecting marine mammals.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 17.8 m (58.4 ft) above sea level, and the observer will have a good view around the entire vessel. During daytime, the MMO will scan the area around the vessel systematically with reticule binoculars (*e.g.*, 7×50 Fujinon), Big-eye binoculars (25×150), and with the naked eye. Night vision devices will be available for use (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), although they are considered of limited effectiveness in detecting marine mammals. Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist in distance estimation.

(3) Passive Acoustic Monitoring (PAM)

Passive acoustic monitoring (PAM) will take place to complement the visual monitoring program. PAM will involve towing hydrophones that detect frequencies produced by vocalizing marine mammals. Two or more hydrophones are used to allow some localization of the bearing (direction) of the animal from the vessel. PAM can be effective at detecting some animals before they are detected visually (Smultea and Holst, 2003; Smultea *et al.*, 2004). Visual monitoring typically is not effective during periods of bad weather or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Therefore, acoustic monitoring can improve detection, identification, localization, and tracking of marine mammals in these circumstances. PAM's value is limited, however, by bottom configuration (water depth) and other environmental factors, and in some cases towing the PAM equipment is not practicable. PAM would be operated or overseen by personnel with acoustic expertise.

SEAMAP (Houston, TX) will be used as the primary acoustic monitoring system. This system was also used during previous L–DEO seismic cruises (*e.g.*, Smultea *et al.*, 2004, 2005; Holst *et al.*, 2005a; 2005b). The PAM system consists of hardware (*i.e.*, hydrophones) and software. The ''wet end'' of the SEAMAP system consists of a low-noise, towed hydrophone array that is connected to the vessel by a ''hairy'' faired cable. The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer lab where the acoustic station and signal conditioning and processing system will be located. The lead-in from the hydrophone array is approximately 400 m (1,312 ft) long, and the active part of the hydrophone array is approximately 56 m (184 ft) long. The hydrophone array is typically towed at depths about 30 m (98 ft).

Dedicated or clean power supply and grounding should be used to operate both hydrophone system and sound acquisition computer(s). Proper steps should be taken to ensure appropriate shielding from any electronic noise and electro magnetic interferences (Radar pulses, GPS etc.) that could introduce noises into the PAM system. An airgun shoots blanking mechanism should be incorporated into the PAM system so that adequate signal gain for PAM can be achieved to detect vocalizing marine mammals in the vicinity.

The acoustical array will be monitored 24 h per day while at the survey area during airgun operations and when the *Langseth* is underway while the airguns are not operating. One MMO will monitor the acoustic detection system at any one time, by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for vocalizations produced by cetaceans. MMOs monitoring the acoustical data will be on shift for 1–6 h. All MMOs are expected to rotate through the PAM position, although the most experienced with acoustics will be on PAM duty more frequently.

When a vocalization is detected, the acoustic MMO will contact the visual MMO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen). The information regarding the call will be entered into a database. The data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group, types and nature of sounds heard, and any other notable information. The acoustic detection can also be recorded for further analysis.

Mitigation

Proposed mitigation measures include (1) vessel speed or course alteration, provided that doing so will not compromise operational safety requirements, (2) airgun array power down, (3) airgun array shut down, and (4) airgun array ramp up.

(1) Speed or Course Alteration

If a marine mammal is detected outside the safety zone but is likely to enter it based on relative movement of the vessel and the animal, then if safety and scientific objectives allow, the

vessel speed and/or course will be adjusted to minimize the likelihood of the animal entering the safety zone. NMFS acknowledges that major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays, thus for surveys involving large sources. Therefore the other mitigation measures often will be required.

(2) Power-down Procedures

A power down involves reducing the number of airguns operating to a single airgun in order to reduce the size of the safety zone. The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel nearby.

If a marine mammal is detected within, or is likely to enter, the safety zone of the array in use, and if vessel course and/or speed changes are impractical or will not be effective to prevent the animal from entering the safety zone, then the array will be powered down to ensure that the animal remains outside the smaller safety zone of the single 40-in^3 airgun. If the size of the safety zone for the single airgun will not prevent the animal from entering it, then a shutdown will be required, as described below.

Following a power down, airgun activity will not resume until the marine mammal is outside the safety zone for the full array. The animal will be considered to have cleared the safety zone if it (1) is visually observed to have left the relevant safety zone; or (2) has not been seen within the safety zone for 15 min in the case of small odontocetes; or has not been seen within the safety zone for 30 min in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

Following a power down and subsequent animal departure as above, the airgun array may resume operations following ramp-up procedures described below.

(3) Shut-down Procedures

If a marine mammal is within or about to enter the safety zone for the single airgun, all airguns will be shut down immediately. Airgun activity will not resume until the animal has cleared the safety zone, as described above.

(4) Ramp-up Procedures

A ramp-up procedure will be followed when an airgun array begins operating after a specified period without operations or at single airgun operation. It is proposed that, for the present cruise, this period would be 4–5 min. This period is based on the largest modeled 180-dB radius for the airgun array to be used in relation to the planned speed of the *Langseth* while shooting.

Ramp up will begin with the smallest gun in the array (40 in^3). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding 6 dB per 5-min period. During ramp-up, the MMOs will monitor the safety zone, and if marine mammals are sighted, decisions about course/speed changes, power down and shutdown will be implemented as though the full array were operational.

Initiation of ramp-up procedures from shutdown requires that the full safety zone must be visible by the MMOs. This requirement will preclude starts at night or in thick fog. Ramp-up is allowed from a power down under reduced visibility conditions, but only if at least one airgun has operated continuously with a source level of at least 180 dB re microPa (rms) throughout the survey interruption. It is assumed that the single airgun will alert marine mammals to the approaching seismic vessel, allowing them to move away if they choose. Ramp-up procedures will not be initiated if a marine mammal is observed within the safety zone of the airgun array to be operated.

Data Collection and Reporting

MMOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment. They will also provide information needed to order a power down or shutdown of airguns when marine mammals are within or near the safety zone.

When a sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel, and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding airgun power down and shutdown, will be recorded in a standardized format. Data accuracy will be verified by the MMOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMO observations will provide the following information:

(1) The basis for decisions about powering down or shutting down airgun arrays.

(2) Information needed to estimate the number of marine mammals potentially taken by harassment as described above.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

A final report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will also provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and the amount and nature of potential take of marine mammals by harassment or in other ways.

Endangered Species Act

Under section 7 of the ESA, the NSF has begun consultation on this proposed seismic survey. NMFS will also consult on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

In April 2007, LGL Ltd. (LGL) prepared a draft *Environmental Assessment of Two Marine Geophysical Surveys by the R/V Marcus G. Langseth in the Eastern Tropical Pacific, 2007* (EA) for L–DEO and NSF. NMFS will review this EA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of the IHA.

Preliminary Determination

Based on the preceding information, and provided that the proposed mitigation and monitoring are incorporated, NMFS has preliminarily determined that the impact of conducting the marine seismic survey in the ETP may result, at worst, in a temporary modification in behavior of

small numbers of certain species of marine mammals. While behavioral and avoidance reactions may be made by these species in response to the resultant noise from the airguns, these behavioral changes are expected to have a negligible impact on the affected species and stocks of marine mammals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the area of seismic operations, the number of potential harassment takings is estimated to be relatively small in light of the population sizes (see Tables 3, 4, and 5). NMFS anticipates the actual take of individuals to be even lower than the numbers depicted in the tables, because those numbers do not reflect either the implementation of the mitigation numbers or the fact that some animals likely will avoid the sound at levels lower than those expected to result in harassment.

In addition, no take by death and/or injury is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the mitigation measures described in this document.

Proposed Authorization

NMFS proposes to issue an IHA to L–DEO for a marine seismic survey project in the ETP in April–August 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: February 28, 2008.

Helen Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–4237 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Gray's Reef National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of intent to initiate public scoping.

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA) Office of National Marine Sanctuaries (ONMS) is preparing a draft environmental impact statement to consider the establishment of a research (control) area in Gray's Reef National Marine Sanctuary (GRNMS). Activities are restricted within research areas in order to facilitate better understanding of resources and environmental processes. This notice announces the beginning of public scoping pursuant to the National Environmental Policy Act. The public scoping process, including public scoping meetings, is intended to solicit information and comments on the range and significance of issues related to the establishment of a research area at Gray's Reef. The results of this scoping process will assist NOAA in formulating alternatives for the draft environmental impact statement for the proposed research area. This notice contains times, dates, and locations for scoping meetings.

DATES: Comments will be considered if received by April 21, 2008.

Scoping meetings will be held at:

(1) March 18, 2008, Camden Public Library, 6–8 p.m.

(2) March 20, 2008, Armstrong Center, 6–8 p.m.

(3) March 24, 2008, Statesboro Regional Library, 6–8 p.m.

(4) March 25, 2008, Stevens Wetlands Education Center, 6–8 p.m.

(5) March 27, 2008, Best Western Sea Island Inn, 6–8 p.m.

ADDRESSES: Written comments may be sent to Gray's Reef NMS (Research Area), 10 Ocean Science Circle, Savannah, GA 31411; or by facsimile to 912/598–2367; or to *grnms.researcharea@noaa.gov.*

Scoping meetings will be held at:

(1) Camden Public Library, 1410 Highway 40 East, Kingsland, Georgia 31548.

(2) Armstrong Center, 13040 Abercorn St., Savannah, Georgia 31419.

(3) Statesboro Regional Library, 124 South Main St., Statesboro, Georgia 30458.

(4) Stevens Wetlands Education Center, 600 Cedar St., Richmond Hill, Georgia 31324.

(5) Best Western Sea Island Inn, 1015 Bay St., Beaufort, South Carolina 29902.

FOR FURTHER INFORMATION CONTACT: Becky Shortland (912) 598–2381 or *Becky.Shortland@noaa.gov.*

SUPPLEMENTARY INFORMATION: The National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 et seq., authorizes the Secretary of Commerce (Secretary) to designate discrete areas of the marine environment as national marine sanctuaries to protect their special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, or esthetic qualities. The NMSA is administered by the National Oceanic and Atmospheric Administration (NOAA) through the Office of National Marine Sanctuaries (ONMS).

The concept of a research (control) area within Gray's Reef National Marine Sanctuary has been under discussion for several years. The concept was first raised in 1999 during the early stages of the GRNMS Management Plan review process at public scoping meetings and was raised again during public research workshops.

Subsequently, the Gray's Reef Sanctuary Advisory Council (SAC), with the approval of the Sanctuary superintendent, formed a research area working group (RAWG) to further consider the concept. The Advisory Council's recommendation to investigate the concept of a marine research area was adopted by GRNMS as a research and monitoring strategy for the Management Plan which was released in 2006.

The RAWG comprised representative constituents of Gray's Reef including: researchers, academics, conservation groups, recreational anglers and divers, educators, commercial fishing, law enforcement and sanctuaries representatives. The working group met initially in May 2004, and then periodically over the course of a year, to discuss the concept in detail. The working group employed a consensus-driven, constituent-based process to address the concept of a marine research area. All participants discussed at length all issues, considerations, priorities and concerns for each step of the process.

The following recommendations were developed by the working group and were referred to the SAC. After reviewing and considering the recommendations, the SAC adopted and submitted them to NOAA GRNMS:

Recommendation #1

Significant research questions exist at Gray's Reef National Marine Sanctuary that can only be addressed by establishing a control (research) area. Therefore, the research area concept should be further explored by NOAA through a public review process.

Recommendation #2

As many appropriate tools as feasible, especially a GIS (Geographic Information Systems, geographic and spatial analysis software) site evaluation tool and a RAWG should be used to investigate a research area with proper siting criteria.

Recommendation #3

Diversity of habitat with emphasis on high relief habitat should be the primary siting criterion. The RAWG should be maintained to support NOAA GRNMS in consideration of these various criteria (e.g., habitat, size, existing research and monitoring sites, bottom fishing data) in developing proposed options for a draft environmental impact statement.

Recommendation #4

Minimizing impacts to user communities including fishing, diving, research, and resource management should be a priority under the research area concept. Non-bottom impinging activities should not be viewed as conflicting with the primary objectives of a proposed research area. Based on the recommendations of the Advisory Council, NOAA has concluded that the research area concept should be further explored through a public review process. In the upcoming DEIS, NOAA will likely develop a range of alternatives for the creation of a research area, including a no-action alternative. If this action results in the creation of a research area in the GRNMS, a companion management plan for the research area will serve as a supplement to the 2006 GRNMS Final Management Plan/Final Environmental Impact Statement.

By this notice, NOAA announces the initiation of scoping for the proposed research area in Gray's Reef National Marine Sanctuary. Scoping is the initial process intended to solicit information and comments on the range and significance of issues related to the proposed action. The results of this scoping process will assist NOAA in formulating alternatives for a draft environmental impact statement for the proposed research area.

NOAA encourages the public and interested parties to submit (via mail, e-mail, or fax) comments and to attend the public scoping meetings in March.

Authority: 16 U.S.C. 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: February 26, 2008.

John H. Dunnigan,

Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 08–930 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XG05

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Ad Hoc Recreational Red Snapper Advisory Panel (AP).

DATES: The meeting will convene at 9 a.m. on Tuesday, March 25, 2008 and conclude no later than 5 p.m. on Wednesday, March 26, 2008.

ADDRESSES: This meeting will be held at the Renaissance Riverview Plaza Hotel, 64 S. Water St., Mobile, AL 36602; telephone: (251) 438–4000.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: At this meeting, the AP will prioritize the goals and objectives for the recreational red snapper fishery that were developed in earlier meetings as well as the list of ideas for managing the recreational red snapper fishery that was previously developed. The AP will select ideas from its list for further development, and will begin the initial work of developing those ideas into possible management action. The AP will also discuss the possible formation of working groups for the task of developing discussion papers on the ideas to be developed. In addition, the AP will receive several presentations providing an overview on marine protected areas, a review of party boat and charter boat catch data, a discussion of educational materials on proper venting and dehooking, and clarification on referendum requirements pertaining to possible changes in the red snapper allocation.

Although other issues not on the agenda may come before the panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

A copy of the agenda can be obtained by calling 813–348–1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: February 29, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–4181 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XG06

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, March 26, 2008, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. Review Council actions for 2008 priority-setting and discuss issues to be addressed in Amendment 4 to the Atlantic Herring Fishery Management Plan (FMP).

2. Identify goals and objectives for Amendment 4 to the Herring FMP

3. Review and approve draft scoping document for Amendment 4.

4. Review and discuss timeline for Amendment 4 and upcoming fishery specifications.

5. Provide opportunity for public comment on Amendment 4 scoping document.

6. Identify priority tasks for Herring Plan Development Team.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: February 29, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–4182 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG02

New England Fishery Management Council; Atlantic Sea Scallop; Scoping Process

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of re-initiation of scoping process; request for comments.

SUMMARY: The New England Fishery Management Council (Council) announces its intent to prepare an amendment to the Fishery Management Plan (FMP) for Atlantic Sea scallops (*Placopecten magellanicus* ((Gmelin)) and to prepare an EIS to analyze the impacts of any proposed management measures. The Council is also formally re-initiating a public process to determine the scope of alternatives to be addressed in the amendment and EIS. The purpose of this notification is to alert the interested public of the re-commencement of the scoping process and to provide for public participation in compliance with environmental documentation requirements.

DATES: The Council will discuss and take scoping comments at public meetings in April 2008. For specific dates and times of the scoping meetings, see **SUPPLEMENTARY INFORMATION**. Written scoping comments must be received on or before 5 p.m. EST, April 4, 2008.

ADDRESSES: The Council will take scoping comments at public meetings in Virginia, New Jersey, Maine and Massachusetts. For specific locations, see **SUPPLEMENTARY INFORMATION**. Written comments on Amendment 15 may be sent by any of the following methods:

- E-mail to the following address *scallop.fifteen@noaa.gov;*
- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Scallop Amendment 15''; or
- Fax to Patricia A. Kurkul, 978–281–9135.

Requests for copies of the scoping document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465–0492. The scoping document is accessible electronically via the Internet at *http://www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Atlantic Sea scallop fishery is managed as one stock complex along the east coast from Maine to Cape Hatteras, North Carolina. The Federal Atlantic Sea Scallop Fishery Management Plan (FMP) became effective on May 15, 1982. The FMP has been amended a number of times since then. In 1994 Amendment 4 began a limited access program for the directed scallop fleet with day-at-sea (DAS) limits and other measures to manage the scallop resource more effectively. Limited access vessels were assigned to different DAS permit categories (full-time, part-time or occasional) according to their 1985–1990 fishing activity. A ''general category'' permit was created for vessels that did not qualify for limited access. These vessels could apply for a general category permit and land up to 400 pounds of scallops a day.

In 2004 Amendment 10 introduced rotational area management and changed the way that the FMP allocates fishing effort for the limited access fishery. Rather than an annual pool of DAS, vessels are now allocated a certain number of trips in controlled access areas as well as a specific number of open area DAS. Numerous other actions have been implemented over the years, including modifications to gear and other input controls to further reduce effort and impacts on essential fish habitat (EFH) and bycatch. More recently, the Council approved an action to control capacity in the general category fishery (Amendment 11), which was approved by the Council in June 2007 and is currently under review by NMFS. If approved, Amendment 11 would allocate a specific portion of the projected scallop catch to the general category fishery and includes a limited access program for this permit type with an individual fishing quota (IFQ) program, as well as other measures.

Additional measures for the Atlantic Sea Scallop FMP are being considered for several primary reasons: 1) the Magnuson-Stevens Reauthorization Act of 2007 (MSRA) includes new requirements for annual catch limits (ACLs) and accountability measures (AMs) to be in place for all FMPs that are not subject to overfishing by 2011; 2) there is excess capacity in the limited access scallop fishery and rationalization of this fishery would reduce costs, increase profits, and increase overall economic efficiency in the fishery; and 3) the current overfishing definition does not protect the stock from growth overfishing and consideration of a more area-based approach is justified since this resource is primarily managed by area rotation. Other issues under consideration are adjustments to various alternatives developed under Amendment 11, measures to address EFH areas closed to the scallop fishery if Phase II of the EFH Omnibus Amendment is delayed, alternatives to improve the scallop research set-aside program, and moving the fishing year from March 1 to May 1.

Measures Under Consideration

The Council may consider a host of management measures to address the three primary issues including, but not limited to, the following: identification of ACLs and AMs for various

components of the scallop fishery; measures to reduce capacity in the limited access fishery including DAS leasing, permits or DAS transfers, and individual fishing quotas (IFQs); and consideration of an overfishing definition that would average fishing mortality for a particular area over a period of time rather than an overall average for the entire resource per fishing year. As for modifications to Amendment 11 measures if approved by NMFS, this action may consider a rollover allowance for general category IFQ permit owners; allocation of IFQ by area for general category IFQ permit owners; alternative methods for calculating the hard TAC in the Northern Gulf of Maine (NGOM) in future years; and consideration of individual sector applications for general category vessels interested in forming a voluntary sector.

This action is also considering alternatives to address the inconsistent EFH areas currently closed to the scallop fishery under both the Scallop and Multispecies FMPs. Specifically, this action may consider making the EFH closed areas consistent under both FMPs if Phase II of the EFH Omnibus Amendment timeline is delayed. Rather than both EFH areas being closed to the scallop fishery, just the EFH areas implemented under the Multispecies FMP would apply to the scallop fishery. Additionally, this action is considering alternatives to improve the overall effectiveness of the research set-aside program. Specifically, alternatives to streamline the process may be considered as well as specific alternatives to maximize use of the resource for direct benefits to scallop management. Lastly, the amendment may consider a range of dates for the start of the fishing year, in addition to the status quo of March 1, to address that the scallop fishing year is out of sync with the framework adjustment process and the timing of when the scallop survey data become available for analysis. As a result, actions have not been implemented at the start of the fishing year, TACs have been misestimated due to reliance on older data, and extra actions have been required to compensate. Therefore, May 1 has been suggested as a possible start date to address some of these issues.

It is possible that during the scoping process other issues will be raised related to the stated purposes of this amendment, and if appropriate, those issues will be considered by the Council as well. On the other hand, some issues may be dropped after completion of the scoping process if the Council determines that the scope of this action is too broad and, due to limited resources, needs to reduce the number of issues considered in this action.

Scoping Process

All persons affected by or otherwise interested in scallop management are invited to participate in determining the scope and significance of issues to be analyzed by submitting written comments (see **ADDRESSES**) or by attending one of the scoping meetings. Scope consists of the range of actions, alternatives, and impacts to be considered. Alternatives include the following: not amending the management plan (taking no action), developing an amendment that contains management measures such as those discussed in this notice, or other reasonable courses of action. Impacts may be direct, individual or cumulative.

This scoping process will also identify and eliminate issues that are not significant from detailed analysis. When, after the scoping process is completed, the Council proceeds with the development of an amendment to the Scallop FMP, the Council will prepare an EIS to analyze the impacts of a range of alternatives under consideration. The Council will hold public hearings to receive comments on the draft amendment and on the analysis of its impacts presented in the EIS.

Scoping Hearing Schedule

The Council will discuss and take scoping comments at the following public meetings:

1.Tuesday, April 1, 7 p.m., Omni Newport News Hotel, 1000 Omni Boulevard, Newport News, VA. 23606; telephone (757) 873–6664.

2.Wednesday, April 2, 7 p.m., Congress Hall, 251 Beach Avenue, Cape May, NJ 08204; telephone (609) 884–8421.

3.Monday, April 7, 7 p.m., Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone (207) 775–2311.

4.Tuesday, April 8, 7 p.m., Holiday Inn Express, 110 Middle Street, Fairhaven, MA 02719; telephone: (508) 997–1281.

Special Accommodations

These meetings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: February 28, 2008

James P. Burgess,

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

[FR Doc. E8–4283 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

0648-XG07

[I.D. 050107K]

Taking and Importing Marine Mammals; Atlantic Fleet Active Sonar Training (AFAST) Activities

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization for the take of marine mammals incidental to Atlantic Fleet Active Sonar Training (AFAST) activities conducted off the Atlantic coast and in the Gulf of Mexico for the period beginning January 2009 and ending January 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than April 4, 2008.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.050107K@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. The Navy's Draft Environmental Impact Statement (DEIS) for AFAST was made available to the public on Feb 15th, 2008, and may be viewed at *http://afasteis.gcsaic.com*. Because NMFS is participating as a cooperating agency in the development of the Navy's DEIS for AFAST, NMFS staff will be present at the associated public meetings and prepared to discuss NMFS' participation in the development of the EIS as well as the MMPA process for the issuance of incidental take authorizations. The dates and times of the public meetings may be viewed at: *http://afasteis.gcsaic.com*.

Background

In the case of military readiness activities, sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines ''harassment'' as:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On February 1, 2008, NMFS received an application from the Navy requesting authorization for the take of 29 species of marine mammals incidental to upcoming AFAST activities to be conducted off the Atlantic coast and in the Gulf of Mexico, over the course of 5 years. These training activities are classified as military readiness activities. The Navy states that these training activities may expose some of the marine mammals present in the area to sound from various mid-frequency and high-frequency active tactical sonar sources or to underwater detonations from the Improved Extended Echo-ranging (IEER) system. The Navy requests authorization to take individuals of 29 species of marine mammals by Level B Harassment. Further, the Navy requests authorization to take 10 individual beaked whales per year by serious injury or mortality (any combination of the following species: Cuvier's beaked whales, northern beaked whales, True's beaked whales, Gervais' beaked whales, Blainsville's beaked whales, and Sowerby's beaked whales).

Specified Activities

In the application submitted to NMFS, the Navy requests authorization for take of marine mammals incidental to conducting operations utilizing mid- and high frequency active sonar sources and IEER, which consists of an explosive source sonobuoy and an air deployable active receiver. These sonar and explosive sources will be utilized during Independent Unit Level Training (single unit), Coordinated Unit Level Training and Strike Group Training (multi-unit operations), maintenance activities, and research, development, testing and evaluation (RDT&E) activities. Table 1–1 in the application lists the activity types, the equipment and platforms involved, and the duration and potential locations of the activities.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's AFAST request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's AFAST activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: February 28, 2008.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–4261 Filed 3–4–08; 8:45 am]

BILLING CODE 3510–22–S

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 12, 2008. The hearing will be part of the Commission's regular business meeting. The business meeting is open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey. No morning conference session is scheduled for this meeting.

Please note that commission action on the Proposed Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Classify the Lower Delaware River as Special Protection Waters (SPW) will not take place at this meeting. The earliest commission meeting date when action could be taken is May 14, 2008.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Freeland Borough Municipal Authority D–94–63 CP–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 17.2 million gallons per thirty days (mg/30 days) to supply the applicant's public water supply distribution system from existing Wells Nos. 9, 12 and 14 in the Buck Mountain Mauch Chunk Formation. The project is located in the Pond Creek Watershed in Freeland Borough, Luzerne County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

2. *Township of Roxbury D–96–17 CP–2.* An application for the renewal of a ground water withdrawal project to supply up to 19.8 mg/30 days from existing Wells Nos. 2, 4, 9 and 12. The project is located in the Stratified Drifts Aquifer in the Musconetcong River Watershed in Roxbury Township, Morris County, New Jersey, within the drainage area to the section of the non-

tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

3. *Smithfield Beef Group (MOPAC) D–96–21–3.* An application for approval of an upgrade of the existing 0.75 million gallon per day (mgd) industrial wastewater treatment plant (IWTP) in accordance with a Consent Order and Agreement issued by PADEP. The upgrade includes a new anaerobic lagoon, a new tertiary filtration system and a new ultraviolet light (UV) disinfection system. The IWTP will continue to discharge to the Skippack Creek. The IWTP is located in Franconia Township, Montgomery County, Pennsylvania.

4. *Nestlé Waters North America, Inc. D–98–27–3.* An application for the renewal of a spring water withdrawal project to continue withdrawal of 9 mg/30 days to supply the applicant's bottled water operations from existing Hoffman Springs Nos. 1, 2 and 3 to supply up to 1.95 mg/30 days from the new Mattos Catchment No. 1 to supplement flow in Ontelaunee Creek. The project is located in the Ontelaunee Creek Watershed in Lynn Township, Lehigh County, Pennsylvania.

5. *Fifer Orchards, Inc. D–2002–20–2.* A combined ground and surface water withdrawal project to continue to supply a maximum of 543 mg/30 days of water to the applicant's irrigation of approximately 2,285 acres of fruit and vegetables through two new wells, nine existing wells and nine existing intakes. The wells are located in the Columbia Formation in the St. Jones River Watershed in the City of Wyoming, Kent County, Delaware. Surface water will be withdrawn from a series of on-site ponds in the St. Jones River Watershed.

6. *Ambler Borough D–75–16 CP–2.* An application for approval of a rerate of the Ambler Borough wastewater treatment plant (WWTP) to 8.0 mgd as a maximum monthly value. The WWTP's existing 6.5 mgd annual average flow will remain unchanged. The WWTP will continue to discharge to the Wissahickon Creek, a tributary to the Schuylkill River. The facility is located in Ambler Borough, Montgomery County, Pennsylvania.

7. *The Premcor Refining Group, Inc. D–93–4–6.* An application to replace the withdrawal of water from Wells Nos. P–3A and P–4A in the applicant's water supply system that have become unreliable sources of supply and to increase the applicant's surface water withdrawal from the Delaware River and Red Lion Creek. Premcor requests that its combined withdrawal from replacement Wells Nos. P–3B and P–4B and seven existing wells remain limited to 180 mg/30 days; that its withdrawal from the Delaware River intake remain at 13,560 mg/30 days; that the docket authorize withdrawals of 38.9 mg/30 days from the Red Lion Creek intake and up to 56.2 mg/30 days from the Dragon Run intake, and that Premcor's combined withdrawal from all sources be limited to 13,655.1 mg/30 days. The proposed allocation represents no increase in groundwater withdrawals, no increase from the Delaware River intake and the inclusion in a DRBC docket of previously un-docketed pre-Compact DNREC allocations from Dragon Run and Red Lion Creek. The project is located in the Potomac Formation in the C&D Canal East, Dragon Run Creek, Red Lion Creek and Delaware River watersheds in Delaware City, New Castle County, Delaware.

8. *Aqua Pennsylvania, Inc. D–97–3–2.* An application to use Wells Nos. 1 and 2 at the former Simpson Paper Company to serve the applicant's potable water supply system. The applicant seeks a maximum withdrawal of 42 mg/30 days from Wells Nos. 1 and 2, representing no change from the maximum combined withdrawal from the wells. The project is located in the Conestoga Formation in the Schuylkill River Watershed in Whitemarsh Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Town of Felton D–99–26 CP–2.* An application for the renewal of a ground water withdrawal project and to decrease the maximum withdrawal from 5.7 mg/30 days to 5.328 mg/30 days to supply the applicant's public water supply distribution from existing Wells Nos. 2, 3 and 4 in the Frederica and Piney Point formations. The project is located in the Fan Branch Watershed in the Town of Felton, Kent County, Delaware.

10. *Upper Hanover Authority D–2001–61 CP–2.* An application for approval of a WWTP expansion project that will increase treatment capacity from 0.15 mgd to 0.40 mgd, while maintaining existing effluent quality via the addition of sequencing batch reactor and tertiary filtration processes. The existing WWTP has reached its design capacity and the expansion project is needed to serve new development in Upper Hanover Township, Montgomery County, Pennsylvania. Following ultraviolet light disinfection, the WWTP effluent will be discharged to Macoby Creek, a tributary of Perkiomen Creek, within the Schuylkill River Watershed. The project is located in the Southeastern Pennsylvania Ground Water Protected Area.

11. *Mountain Hill Cottages D–2005–2–1.* An application to upgrade the septic system that serves the Mountain Hill Cottages development located off Cold Spring Road approximately 2,000 feet north of its intersection with Cantrell Road in the Town of Thompson, Sullivan County, New York. An additional septic system will be constructed to treat 5,250 gallons of flow. The effluent from the proposed septic system will be routed to a 14,000 gallon per day sand filter, which recharges the groundwater. No expansion of the sand filter is required, but a new chlorine contact tank will be provided. The project is in the Bush Kill Watershed, upstream from its confluence with the Neversink River in the drainage area of DRBC Special Protection Waters.

12. *Valleybrook Golf Club D–2006–21–1.* An application for approval of a surface water withdrawal project to supply up to 7 mg/30 days of water to the applicant's golf course irrigation system from three surface water intakes from a series of one lake and retention ponds on Pines Run. The project is located in the Pines Run Watershed in Gloucester Township, Camden County, New Jersey.

13. *Pocono Manor Investors Pt. 1, L.P. D–2006–43–1.* A revised application for approval of a ground water withdrawal project to supply up to 15.984 mg/30 days of water to the applicant's Pocono Manor site from new Wells Nos. 1, 2 and 3 and to limit the existing withdrawal from all wells to 15.984 mg/30 days. The wells will serve Phases I, II–A, III & II–B of the docket holder's revised residential and commercial development plans. The project is located in the Catskill Formation in the Brodhead/Swiftwater Creek Watershed in Pocono Township, Monroe County, Pennsylvania. The location is also within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

14. *Wayne Economic Development Corporation D–2007–18–1.* An application for the approval of the new Sterling Business Park WWTP. The new 35,000 gpd WWTP will service the 252-acre Sterling Business Park of the Wayne County Economic Development Corporation (WEDCO). The Sterling Business Park will consist of up to 23 commercial building sites, ranging in size from 3 to 30 acres. The project includes a 7,000 gpd non-potable water reuse system for restrooms and landscape irrigation. The applicant's WWTP will discharge to the West Branch Wallenpaupack Creek, within the section of the non-tidal Delaware

River known as the Upper Delaware, which is classified as Special Protection Waters. The facility is located on State Route 0191, approximately one mile north of the S.R.0191/Newfoundland exit off I–84 in Sterling Township, Wayne County, Pennsylvania.

15. *Upper Makefield Township D–2007–24 CP–1.* An application for approval of a ground water withdrawal project to supply up to 8.43 mg/30 days of water to the applicant's public water supply distribution system from new Wells HH1, HH2, HH4, GTW1 and GTW2. The project is located in the Brunswick and Lockatong formations in the Houghs Creek and Delaware River watersheds in Upper Makefield Township, Bucks County, Pennsylvania. The site is located within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

16. *Upper Makefield Township D–2007–25 CP–1.* An application for the approval of the new 20,000 gpd Gray Tract WWTP. The WWTP will serve approximately 96 age-restricted dwellings and 14 existing homes and is proposed to discharge to an unnamed tributary of Hough's Creek, which is tributary to the Delaware River. The facility is located in Upper Makefield Township, Bucks County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

17. *Congoleum Corporation D–2007–35–1.* An application to discharge an average of 122,000 gallons per day of non-contact cooling and storm water from the applicant's tile floor manufacturing facility. The discharge is to a Hamilton Township municipal storm sewer, which discharges to Hamilton Ditch and Miry Run, tributaries to the Delaware River. The facility is located in Hamilton Township, Mercer County, New Jersey.

18. *U.S. Silica—Port Elizabeth Mine D–2007–37–1.* An application for approval of a surface water withdrawal project to supply up to 288 mg/30 days of water from surface water Intake No. 1 for sand and gravel processing and up to 0.778 mg/30 days from one well used for sanitary supply at the facility. The project is located in the Maurice River Watershed in Mauricetown Township, Cumberland County, New Jersey.

19. *Franconia Sewer Authority D–2007–41 CP–1.* An application for approval of the construction of a new 0.15 mgd Franconia Sewer Authority WWTP, pump station and appurtenances. The new WWTP will serve the new Souderton Area High School and sanitary waste from Smithfield Beef Group (formerly Moyer Packing Company). The WWTP will discharge to the Skippack Creek, a tributary to the Perkiomen Creek, which is a tributary to the Schuylkill River. The facility will be located in Franconia Township, Montgomery County, Pennsylvania.

20. *Pocono Manor Investors, L.P. D–2007–44–1.* An application for approval of a surface water withdrawal project to supply up to 0.72 mg/30 days of water to the applicant's irrigation system from Intake No. 1 and to limit the existing withdrawal from all intakes to 0.72 mg/30 days. The project is located on Indian Run, a tributary to Pocono Creek in Pocono Township, Monroe County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

21. *Congoleum Corporation, D–2005–25–2.* Approval is requested for corrections to the effluent table in section A.4.d. of Docket D–2005–25–1 issued on March 1, 2006 for an industrial discharge of non-contact cooling water and stormwater from Congoleum Plant No. 2. The effluent table incorrectly listed limits for four parameters for which DRBC lacked applicable requirements: Bromodichlorormethane, Chloroform, Chlorine Produced Oxidants and Chronic Toxicity. The Executive Director subsequently issued corrected Docket D–2005–25–2, in which the state limits are listed for these parameters, pending ratification by the Commission. The discharge is made to the Hamilton Township storm sewer, which discharges to Pond Run, a tributary of the Assunpink Creek. The facility is located in Hamilton Township, Mercer County, New Jersey.

22. *Borough of South Coatesville, D–74–39 CP–2.* Approval is requested for corrections to the effluent table in section A.4.d. of Docket D–74–39-CP–2 issued on July 18, 2007 for the rerate of the South Coatesville Wastewater Treatment Plant. The effluent table incorrectly listed a Commission limit for Dissolved Oxygen that is inapplicable to the South Coatesville Borough facility. The Executive Director subsequently issued corrected Docket D–74–39 CP–2, in which the applicable state limit is listed for this parameter, pending ratification by the Commission. The facility is located on the border between South Coatesville Borough and Modena Borough in Chester County, Pennsylvania. The discharge is to the West Brandywine Creek.

In addition, the Commission's 1:30 p.m. business meeting will include adoption of the Minutes of the Commission's December 12, 2007 business meeting; announcements of upcoming advisory committee meetings and other events; a report by the Executive Director; a report by the Commission's General Counsel; consideration of a resolution for the minutes authorizing the Executive Director to engage an engineering firm to oversee lighting and HVAC improvements to the Commission's West Trenton office building; a resolution to adopt the Commission's annual budget for the Fiscal Year ending 2009 (July 1, 2008 through June 30, 2009); and an opportunity for public dialogue. The hearing on the proposed budget took place on December 12, 2007.

Draft dockets scheduled for public hearing on March 12, 2008 are posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate your needs.

Dated: February 28, 2008.

Pamela M. Bush,

Commission Secretary.

[FR Doc. E8–4217 Filed 3–4–08; 8:45 am]

BILLING CODE 6360–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Guidance on Voluntary Voting System Guidelines

AGENCY: United States Election Assistance Commission.

ACTION: Notice of 60 day extension of public comment period for TGDC draft recommendations of Voluntary Voting System Guidelines and request for comments.

SUMMARY: The Help America Vote Act of 2002 (HAVA) (Pub. L. 107–252, October 29, 2002) established the U.S. Election

Assistance Commission (EAC). Section 202 of HAVA directs the EAC to adopt voluntary voting system guidelines (WSG) and to provide for the testing, certification, decertification, and recertification of voting system hardware and software. The VVSG provides specifications and standards against which voting systems can be tested to determine if they provide basic functionality, accessibility, and security capabilities. Section 221 of HAVA mandates the creation of the Technical Guidelines Development Committee (TGDC) to assist the EAC in developing its voluntary voting system guidance. The TGDC has recommended standards to the EAC. These recommended standards were submitted by the TGDC to the EAC's Executive Director pursuant to section 221 of HAVA.

As part of its development process the EAC is seeking public comment on the TGDC's recommended standards. The EAC encourages the public to offer specific and detailed comments on all aspects and sections of the requirements. The EAC is particularly interested in receiving comments on three distinct issues:

(1) The concept of Software Independence and the corresponding requirements for Independent Voter Verifiable Records and the Innovation class;

(2) Open Ended Vulnerability Testing; and

(3) The usability and accessibility benchmarks developed for this iteration of the VVSG.

All three of these concepts are new to the VVSG and could have a substantial impact on the cost of implementation and on the security and accessibility of voting systems.

The purpose of this notice is to extend the public comment period an additional sixty days. The EAC is currently in the process of conducting a series of roundtable discussions regarding the TGDC recommended guidelines. The first of these roundtables occurred on December 13, 2007 in Austin, TX and involved a group of computer security scientists from around the United States. The next roundtable was conducted on February 29, 2008 in Washington, DC and involved Voting System Manufacturers. The EAC is currently planning to conduct additional roundtables involving usability/accessibility professionals, election officials, and voting integrity advocates in March, April and May of 2008. The purpose of extending the public comment period is to allow the public the opportunity to continue to comment on the proposed standards including the ideas presented at the roundtables the EAC is conducting.

DATES: The comment period which originally ended March 5, 2008, is now extended to May 5, 2008. All comments must be received on or before 4 p.m. on this day.

Submission of Comments: The EAC provides two means of submission of comments: (1) On-line electronic comment form at *http://www.eac.gov*, and (2) by mail to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 1100, Washington, DC 20005. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration.

In order to allow efficient and effective review of comments the EAC requests that:

(1) Comments should refer to the specific section that is the subject of the comment.

(2) Comments regarding a term that is included or that should be added to the ''Appendix A: Definitions of Words with Special Meanings'' should reference the term, part, and section number to which the comment refers.

(3) General comments regarding the entire document or comments that refer to more than one section should be made as specifically as possible so that EAC can clearly understand to which portion(s) of the documents the comment refers.

(4) To the extent that a comment suggests a change in the wording of a requirement or section of the guidelines, please provide proposed language for the suggested change.

To Obtain a Copy of the TGDC Draft Recommendations of the Voluntary Voting System Guidelines: Due to the fact that the Voluntary Voting System Guidelines are more than 550 pages in length, the entire draft document has not been attached to this notice. A complete copy of the TGDC draft recommendations of the Voluntary Voting System Guidelines is available from the EAC in electronic format. An electronic copy can be downloaded in PDF format or read in HTML version on EAC's Web site, *http://www.eac.gov*. In order to obtain a paper copy of the TGDC draft recommendations please mail a written request to Voluntary Voting System Guidelines Comments, U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 1100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Matthew Masterson, Phone (202) 566–3100, e-mail *votingsystemstandards@eac.gov*.

SUPPLEMENTARY INFORMATION: Prior to the passage of HAVA, the Federal Election Commission (FEC) published the 2002 Voting System Standards (VSS). HAVA mandated that the EAC update the VSS. In December of 2005 the EAC adopted the 2005 VVSG. The 2005 VVSG used many of the same requirements as the 2002 VSS but it expanded the security, accessibility, and usability sections. On March 29, 2006, the TGDC held its first meeting to discuss the next iteration of the VVSG. Since that time, the TGDC has held numerous public meetings and subcommittee conference calls to create a set of draft guidelines for recommendation to the EAC (all TGDC meeting materials can be found at *www.vote.nist.gov*). On August 17, 2007, the TGDC voted to complete final edits of their recommendations and submit them to the Executive Director of the EAC. The EAC received the draft guidelines from the TGDC on August 31, 2007.

The recommended guidelines currently consist of an Introduction and three distinct Parts. The Introduction is an overview of the requirements and explanations of new or expanded materials. Part 1 contains the equipment requirements including upgraded requirements for security and new usability benchmarks for voting machines. Part 2 details the documentation requirements for both the manufacturers and the Voting System Test Laboratories (VSTL). Part 2 also includes a section on the submission of the Technical Data Package and requirements for full system user documentation. Part 3 contains the testing requirements for voting machines. This includes new material on open ended vulnerability testing and new benchmarks for performance testing. In addition to the introduction and the three parts, the guidelines contain (1) An appendix for ''definitions of words with special meaning'' specific to the requirements and (2) an appendix detailing all references and end notes.

Now that the TGDC has submitted its draft recommendations to the EAC for publication in the **Federal Register**, the EAC will begin its review and development process. This is a four phase plan:

Phase I—EAC will submit the TGDC's draft document to the **Federal Register** and provide a public comment feature on *http://www.eac.gov*. The public comment period will last for 180 days and all comments will be made available for public review. This public comment period is not required by law, however the EAC thought it was

extremely important to receive public input before proceeding with the process. During this public comment period the EAC will conduct public hearings regarding the TGDC's draft recommendations. The TDGC draft is currently available at *http://www.eac.gov*.

Phase II—EAC will collect and review all public comments submitted on the TGDC draft. After consideration of all public comments, the EAC will then perform an internal review.

Phase III—Based upon public comment and internal review of the TGDC document, the EAC will develop and publish its draft version in the **Federal Register**. The public will have another 120 days to comment on the EAC draft version. EAC will conduct public hearings to discuss its draft version.

Phase IV—EAC will collect and review all comments submitted and make final modifications. The final version of the VVSG will be adopted by vote of the Commission at a public meeting and then published in the **Federal Register**.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. E8–4238 Filed 3–4–08; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

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), Hanford. 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: Thursday, April 3, 2008, 9 a.m.–5 p.m.; Friday, April 4, 2008, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel on the River, Jantzen Beach, Portland, 909 N. Hayden Island Drive, Portland, Oregon 97217, Phone: (503) 978–4586, Fax: (503) 735–4847.

FOR FURTHER INFORMATION CONTACT: Erik Olds, Federal Coordinator, Department of Energy Richland Operations Office, 2440 Stevens Drive, P.O. Box 450, H6–60, Richland, WA 99352; Phone: (509) 372–8656; or E-mail: *Theodore_E_Erik_Olds@orp.doe.gov*.

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 Agenda:

- Hanford's Fiscal Year 2009–2010 Budget
- Hanford's Central Plateau Waste Site Cleanup 200 PW–1, 3, 6 Proposed Plan
- Board letter to DOE on Groundwater 200 ZP–1 operable unit
- Letter to DOE on the technology working group
- Hanford 200 Area white paper written by the Environmental Protection Agency and Washington State Department of Ecology
- Configuration Control of Critical Assumptions
- Office of River Protection's Integrated System Plan
- Uniform Safety Systems throughout Hanford
- Update on Waste Management Conference held on February 24–28, 2008, in Phoenix, Arizona
- Committee Updates including: Tank Waste Committee; River and Plateau Committee; Health, Safety and Environmental Protection Committee; Public Involvement Committee; and Budgets and Contracts Committee

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 statements pertaining to agenda items should contact Erik Olds' office at the address or telephone number listed above. Requests 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 Erik Olds' office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/?page=413&parent=397*.

Issued at Washington, DC on February 26, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–4216 Filed 3–4–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Ultra-Deepwater Advisory Committee; Correction

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting correction.

The Department of Energy published a notice of open meeting announcing a meeting of the Ultra-Deepwater Advisory Committee, 73 FR 8863. In FR Doc. E8–2891, published on Friday, February 15, 2008, page 8863, under **SUPPLEMENTARY INFORMATION**, third column, second line, remove ''onshore unconventional'' and add in its place ''ultra-deepwater''.

Issued in Washington, DC on February 29, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 08–948 Filed 2–29–08; 11:10 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of International Regimes and Agreements; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Notice of Proposed Subsequent Arrangement.

SUMMARY: This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway for Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns a request for a three-year extension of the current programmatic approval for retransfer of U.S.-obligated irradiated fuel rods between Studsvik Nuclear AB, Sweden and the Institutt for Energiteknikk, Norway. The rods are being transferred for irradiation service, tests and examination, and will be returned to Sweden for further test and disposal. The total shipping amounts will be the same as allowed under the current approval—a maximum of 30,000 grams uranium, 400 grams U–235 and 400 grams plutonium in all shipments combined, with a maximum of 100 grams of plutonium per shipment.

The original programmatic consent was approved in June 2006 (published in the **Federal Register** June 13, 2006). A one-year extension was approved in January 2007 (published in the **Federal Register** January 23, 2007). If approved, the third extension, for three years, will extend to 2011. All transactions will be subject to U.S.-Euratom Agreement for Cooperation on Peaceful Uses of Nuclear Energy.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice.

Dated: February 20, 2008.

For the Department of Energy.

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. E8–4215 Filed 3–4–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Supplemental Environmental Impact Statement: Site Selection for the Expansion of the Strategic Petroleum Reserve

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement and Conduct Public Scoping Meetings, and Notice of Floodplain and Wetlands Involvement.

SUMMARY: The Energy Policy Act of 2005 (EPACT, P.L. 109–58) required the Department of Energy (DOE) to expand the Strategic Petroleum Reserve (SPR) from its current 727 million-barrel capacity to 1 billion barrels. In order to fulfill the requirements of the National Environmental Policy Act (NEPA) for the expansion project, DOE prepared the environmental impact statement (EIS) *Site Selection for the Expansion of the Strategic Petroleum Reserve* (DOE/EIS–0385). In the Record of Decision (ROD), published in the **Federal Register** on February 22, 2007, DOE announced its selection of Richton, Mississippi, as the location of a new SPR facility as part of the expansion project. The site was selected for its large and undeveloped salt dome, enhanced oil distribution capabilities, and inland location that is less vulnerable to the damaging effects of hurricanes.

Since selecting the Richton site, DOE has engaged in further consultations with Federal and Mississippi state agencies and is now considering different locations from those addressed in DOE/EIS–0385 for certain facilities associated with the Richton SPR expansion site. This Notice announces DOE's intent to prepare a supplemental environmental impact statement (SEIS) in accordance with NEPA, Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500–1508), and the DOE NEPA regulations (10 CFR part 1021).

Some of the potential new locations may be in floodplains or wetlands. DOE hereby gives notice that it will include in the SEIS a floodplain assessment and a wetland assessment prepared in accordance with the DOE Regulations for Compliance with Floodplain and Wetland Environmental Review Requirements (10 CFR part 1022).

DOE invites interested agencies, organizations, Native American tribes, and members of the public to submit comments or suggestions to assist in identifying alternatives, significant environmental issues, and the appropriate scope of the SEIS.

DATES: The public scoping period starts March 5, 2008 and will continue until April 29, 2008. Written and oral comments will be given equal weight and DOE will consider all comments received or postmarked by April 29, 2008, in defining the scope of the SEIS. Written comments postmarked or sent after this date will be considered to the degree practicable. The dates for public meetings are as follows:

April 8, 2008; 2 p.m. to 8 p.m.; Leakesville, Mississippi (Greene County)

April 9, 2008; 2 p.m. to 8 p.m.; Lucedale, Mississippi (George County)

April 10, 2008; 2 p.m. to 8 p.m.; Pascagoula, Mississippi (Jackson County)

The locations of the public scoping meetings were selected based on their proximity to the locations of proposed facilities under consideration. If an agency, organization, or a member of the general public wishes to request that DOE have an additional scoping meeting at a specific location, please contact Donald Silawsky at the address listed in the **ADDRESSES** section of this Notice. If DOE decides to hold public meetings in addition to those listed above, DOE will publish an amendment to this Notice and make other public announcements.

ADDRESSES: Written comments or suggestions on the scope and content of the SEIS should be directed to Donald Silawsky at the Office of Petroleum Reserves (FE–47), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0301. Mr. Silawsky may also be contacted by telephone at 202–586–1892, by facsimile at 202–586–4446, or by electronic mail at *donald.silawsky@hq.doe.gov.* Envelopes and the subject line of e-mails or faxes should be labeled ''Scoping for the SPR SEIS.'' Please note that conventional mail to DOE may be delayed by anthrax screening.

The locations of the scoping meetings are as follows:

Greene County High School, 4336 High School Road, Leakesville, Mississippi

George County Senior Center, 7102 Hwy. 198 E., Lucedale, Mississippi

B.E. Mac McGinty Civic Center, 2902 Shortcut Road, Pascagoula, Mississippi

FOR FURTHER INFORMATION CONTACT: For information on the proposed project or to receive a copy of the Draft SEIS when it is issued, contact Donald Silawsky by any of the means listed in the **ADDRESSES** section of this Notice. Additional information may also be found on the DOE Fossil Energy Web site at *http://www.fe.doe.gov.*

For further information on the expansion of the Strategic Petroleum Reserve, contact David Johnson at the Office of Petroleum Reserves (FE–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0301, by telephone at 202–586–4733, by facsimile at 202–586–7919, or by electronic mail at *david.johnson@hq.doe.gov.*

For general information on the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0103, by telephone at 202–586–4600, or leave a toll-free message at 800–472–2756.

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action

The Energy Policy Act of 2005 (EPACT, Pub. L. 109–58) states (in Section 303) that: ''Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve.'' In order to fulfill the requirements of NEPA for the expansion project, DOE prepared the EIS *Site Selection for the Expansion of the Strategic Petroleum Reserve* (DOE/EIS–0385). In the ROD,

published in the **Federal Register** on February 22, 2007 (72 FR 7964), DOE announced its selection of Richton, Mississippi, as the location of a new SPR facility as part of the expansion project. The site was selected for its large and undeveloped salt dome, enhanced oil distribution capabilities, and inland location that is less vulnerable to the damaging effects of hurricanes.

The ROD stated that the raw water intake structure to be used for oil storage cavern development, maintenance, and drawdown at the Richton facility is to be located at the Leaf River at New Augusta, Mississippi (10 miles from the Richton Site), with a secondary raw water intake structure at the Gulf of Mexico (88 miles from the Richton Site). The ROD also stated that the oil terminal and tank farm are to be located at the former Naval Station Pascagoula, a Base Realignment and Closure site on Singing River Island in the Gulf of Mexico. The brine disposal pipeline as described in DOE/EIS–0385 was to run roughly south from Singing River Island into the Gulf of Mexico and terminate in a diffuser about 11.5 miles from the south shore of the island.

After selecting Richton, DOE engaged in further consultations with the Mississippi Department of Environmental Quality, U.S. Fish and Wildlife Service, and other governmental entities. As a result, DOE is considering whether to select a new location for the raw water intake structure, from the location on the Leaf River as described in the ROD, to a location with greater water availability. DOE will also assess a new location for the marine oil terminal from the Singing River Island location described in the ROD. Relocating the oil terminal may require a revised route for the offshore brine disposal pipeline. DOE will assess any changes to pipeline or powerline rights-of-way that would be made as a result of changing the raw water intake structure and marine oil terminal facilities.

DOE has determined that the potential new locations of the raw water intake, oil terminal, and brine disposal pipeline and diffuser associated with the Richton SPR expansion facility would be substantial changes to the proposal analyzed in DOE/EIS–0385 that are relevant to environmental concerns. DOE will therefore prepare a SEIS in accordance with NEPA, the CEQ NEPA regulations (40 CFR parts 1500–1508), the DOE NEPA regulations (10 CFR part 1021), and 10 CFR part 1022.

Alternatives

DOE has identified the Pascagoula River near Merrill as one alternative location for the raw water intake for the Richton SPR expansion facility. DOE has identified Bayou Casotte Harbor as an alternative site for the marine oil terminal. Associated with this potential new location of the oil terminal is a revised route for the offshore brine disposal pipeline that would run south from Bayou Casotte Harbor into the Gulf of Mexico and utilize an existing underwater right of way. The termination point of the revised pipeline route at the diffuser would be about 1.2 miles west of the diffuser location that was identified in DOE/EIS–0385. DOE will assess any changes to pipeline or powerline rights-of-way that would be made as a result of changing the raw water intake structure and marine oil terminal facilities. DOE invites suggestions for alternative locations for the raw water intake structure, oil terminal, and brine disposal.

The No-Action Alternative would be to not change the planned locations of the raw water intake structure, marine oil terminal, and brine disposal pipeline and diffuser.

Identification of Environmental Issues

The purpose of this Notice is to solicit comments and suggestions for consideration in the preparation of the SEIS. As background for public comment, this Notice contains a list of potential environmental issues that DOE has tentatively identified for analysis. This list, which DOE developed from preliminary scoping of the proposed changes, is not intended to be all-inclusive or to imply any predetermination of impacts. Instead, it is presented to facilitate public comment on the planned scope and content of the SEIS. Additions to or deletions from this list may occur as a result of the public scoping process.

The following is a preliminary list of potential environmental resource areas that may be affected by construction and operation of the raw water intake, oil terminal, and brine pipeline and diffuser at the proposed new locations and that may be analyzed in the SEIS:

(1) Local and Regional Air Quality.

(2) Water Resources: The quantity and quality of local and regional marine, freshwater, and groundwater systems.

(3) Ecological Resources: Terrestrial and aquatic plants and animals, including state and Federally listed threatened and endangered species, and other protected resources (e.g., wetlands and essential fish habitat).

(4) Land Use: The effects of allocating land resources at the proposed new locations for the raw water intake and oil terminal rather than for other uses (e.g., commercial or recreation).

(5) Geological Resources: Local geology and soils.

(6) Public Health and Safety (including potential incidental spills and releases).

(7) Socioeconomics: Potential influx of workers and the potential increase in demand for local services.

(8) Cultural Resources: Historical, archaeological, and culturally important sites.

(9) Environmental Justice: The potential for disproportionately high and adverse effects on populations protected under Executive Order 12898 (*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*).

Scoping Process

To ensure that all issues related to this proposal are addressed, DOE will conduct an open process to define the scope and content of the SEIS. Interested agencies, organizations, Native American tribes, and members of the public are encouraged to submit comments or suggestions concerning the content of the SEIS, issues and impacts to be addressed in the SEIS, and alternatives that should be considered. DOE invites oral comments and suggestions at public scoping meetings to which agencies, organizations, Native American tribes, and the general public are invited.

Written comments should be sent to DOE as described in the **ADDRESSES** section above. Public scoping meetings will be held at the locations, dates and times listed in the **DATES** and **ADDRESSES** sections. These meetings will be informal. A presiding officer designated by DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements will not be cross-examined by other speakers. To request time to speak at the public scoping meetings, please contact Donald Silawsky via mail, fax, or e-mail as listed in the **ADDRESSES** section of this Notice. Persons may also sign up to speak before each meeting at the reception desk at the entrance to the meeting.

To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to speak, DOE may allow longer times for representatives of

organizations. Persons wishing to speak on behalf of an organization should identify that organization when they sign up to speak.

A complete transcript of the public scoping meetings will be retained by DOE and made available to the public for review via the DOE Web site at *http://www.fe.doe.gov* and during business hours at the Department of Energy, Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0173, and at the Department of Energy SPR Project Management Office, 900 Commerce Road East, New Orleans, LA 70123–3406. Additional copies of the public scoping meetings transcripts will be made available during normal business hours at the following locations:

Jackson County, Pascagoula Public Library, 3214 Pascagoula St., Pascagoula, MS 39567

Perry County, Richton Public Library, 210 N. Front St., Richton, MS 39476

Greene County, Leakesville Public Library, 101 Lafayette, Leakesville, MS 39451

George County, Lucedale-George County Public Library, 507 Oak St., Lucedale, MS 39452

Draft SEIS Schedule and Availability

The Draft SEIS is scheduled to be issued in late Fall 2008. The availability of the Draft SEIS and dates for public hearings soliciting comments will be announced in the **Federal Register** and local media. The Draft SEIS will be made available for public inspection at the libraries identified above. Comments on the Draft SEIS will be considered in preparing the Final SEIS.

Interested parties who do not wish to submit comments at this time, but who would like to receive a copy of the Draft SEIS and other project materials, should contact Donald Silawsky as provided in the **ADDRESSES** section of this Notice.

Issued in Washington, DC, on February 29, 2008.

James A. Slutz,

Acting Principal Deputy Assistant Secretary, Office of Fossil Energy.

[FR Doc. E8–4242 Filed 3–4–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–45–001; CP06–401–001]

TransColorado Gas Transmission Company, LLC; Notice of Application

February 27, 2008.

Take notice that on February 12, 2008 TransColorado Gas Transmission Company, LLC (TransColorado) P.O. Box 281304, Lakewood, Colorado 80228–8304, filed an application pursuant to section 7(c) of the NGA and the Commission's regulations to amend its certificates of public convenience and necessity issued in Docket Nos. CP05–45–000 (111 FERC ¶ 62,224) and CP06–401–000 (119 FERC ¶ 61,069). TransColorado seeks authority to relocate two previously authorized compressor stations pending at the Greasewood Compressor Station in Rio Blanco County, Colorado to a new site approximately six miles west called the Love Ranch Compressor Station, also in Rio Blanco County. TransColorado further seeks authority to construct and operate a new interconnect with Rockies Express Pipeline, LLC. TransColorado states that the reconfiguration will permit TransColorado better to meet the current market needs of producers and shippers.

These filings are available for review at the Commission's Washington, DC offices or may be viewed on the Commission's Web site at *http://www.ferc.gov/* using the ''e-Library'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *ferconlinesupport@ferc.gov* or *Telephone:* 202–502–6652; *Toll-free:* 1–866–208–3676; or for TTY, contact (202) 502–8659.

Any questions regarding these applications should be directed to Skip George, Manager of Certificates, TransColorado Gas Transmission Company, LLC, P.O. Box 281304, Lakewood, Colorado 80228–8304, phone (303) 914–4969.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this Project. First, any person wishing to obtain legal status by becoming a party to the proceeding for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project and/or associated pipeline. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process.

Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 285.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 19, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4169 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 19, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–400–002.

Applicants: CalPeak Power-El Cajon, LLC.

Description: CalPeak Power-El Cajon, LLC submits an amendment to its 1/23/08 amended filing of Reliability Must-Run Service Agreement between CalPeak El Cajon and the California Independent System Operator Corporation.

Filed Date: 02/13/2008.

Accession Number: 20080215–0072.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 05, 2008.

Docket Numbers: ER08–559–000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits a Notice of Cancellation of Joint Operating Agreement with Edison Sault Electric Company.

Filed Date: 02/14/2008.

Accession Number: 20080215–0031.

Comment Date: 5 p.m. Eastern Time on Thursday, March 06, 2008.

Docket Numbers: ER08–561–000.

Applicants: Benton County Wind Farm, LLC.

Description: Benton County Wind Farm, LLC submits its proposed market-based rate tariff entitled FERC Electric Tariff 1 for its electric generating facility located in Benton County, Indiana.

Filed Date: 02/12/2008.

Accession Number: 20080215–0032.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 04, 2008.

Docket Numbers: ER08–562–000.

Applicants: Duke Energy Indiana, Inc

Description: Duke Energy Indiana, Inc. submits a notice of cancellation, cancelling the transmission system to transmission system Interconnection Agreement with Hoosier Energy Rural Electric Coop, Inc.

Filed Date: 02/14/2008.

Accession Number: 20080215–0058.

Comment Date: 5 p.m. Eastern Time on Thursday, March 06, 2008.

Docket Numbers: ER08–564–000.

Applicants: Vision Power Systems, Inc.

Description: Vision Power Systems Inc submits Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority.

Filed Date: 02/14/2008.

Accession Number: 20080215–0030.

Comment Date: 5 p.m. Eastern Time on Thursday, March 06, 2008.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM08–3–001.

Applicants: Alliant Energy Corporate Services, Inc.

Description: Additional Information and Clarification of Alliant Energy Corporate Services, Inc.

Filed Date: 02/14/2008.

Accession Number: 20080214–5056.

Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–4201 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 22, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–1280–001, ER00–2181–004, ER02–556–008.

Applicants: Hess Corporation; Hess Energy, Inc.; Select Energy New York, Inc.

Description: Hess Corporation *et al.* submit a notice of change in status and updated market-based rate schedules in compliance with Order 697.

Filed Date: 02/19/2008.

Accession Number: 20080221–0080.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER07–583–004.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Company of Indiana Inc submits its filing in compliance with 1/18/08 order.

Filed Date: 02/19/2008.

Accession Number: 20080221–0040.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–379–001.
Applicants: Rensselaer Cogeneration LLC.
Description: Rensselaer Cogeneration LLC submits their amended proposed market based rate tariff entitled FERC Electric Tariff First Revised, Volume No.1.
Filed Date: 02/20/2008.
Accession Number: 20080222–0111.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Docket Numbers: ER08–412–001.
Applicants: Commonwealth Edison Company.
Description: Commonwealth Edison Company's Supplement Letter to the January 4, 2008 Application Regarding Wholesale Sales.
Filed Date: 02/21/2008.
Accession Number: 20080221–5017.
Comment Date: 5 p.m. Eastern Time on Monday, March 3, 2008.

Docket Numbers: ER08–575–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co's Service Agreement 27 with City of Riverside under Wholesale Distribution Access Tariff, FERC Electric Tariff, First Revised Volume No. 5.
Filed Date: 02/19/2008.
Accession Number: 20080220–0204.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–576–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits clean and redlined tariff sheets amending and revising certain term and conditions in Wisconsin Electric's FERC Electric Tariff, Second Revised Volume 2.
Filed Date: 02/19/2008.
Accession Number: 20080220–0205.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–577–000.
Applicants: Noble Bellmont Windpark, LLC.
Description: Noble Bellmont Windpark, LLC submit application for order accepting initial tariff, waiving regulations, and granting blanket approvals.
Filed Date: 02/19/2008.
Accession Number: 20080220–0206.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–578–000.
Applicants: Noble Chateaugay Windpark, LLC.
Description: Noble Chateaugay Windpark, LLC submits application for Order Accepting Initial Tariff, Waiving Regulations and Granting Blanket Approvals.
Filed Date: 02/19/2008.
Accession Number: 20080220–0208.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–579–000.
Applicants: Noble Wethersfield Windpark, LLC.
Description: Noble Wethersfield Windpark, LLC submits application for Order Accepting Initial Tariff, Waving Regulations and Granting Blanket Approvals.
Filed Date: 02/19/2008.
Accession Number: 20080220–0207.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER08–580–000.
Applicants: Ontario Energy Trading International Corporation.
Description: Ontario Power Generation Energy Trading, Inc submits a Notice of Succession notifying the Commission that effective 2/20/08 they will succeed to their FERC Electric Tariff, Original Volume.
Filed Date: 02/20/2008.
Accession Number: 20080221–0036.
Comment Date: 5 p.m. Eastern Time on Wednesday, March 12, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E8–4203 Filed 3–4–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 27, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–44–000.
Applicants: Birchwood Power Partners, L.P., J-POWER USA Investment Co., Ltd.
Description: Birchwood Power Partners, LP and J-Power USA Investment Co, Ltd submits application seeking authorization for the acquisition of a portion of the ownership interests in Birchwood etc.
Filed Date: 02/21/2008.
Accession Number: 20080225–0190.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: EC08–45–000.
Applicants: Cinergy Capital & Trading, Inc., Brownsville Power I, LLC
Description: Cinergy Capital & Trading, Inc and Brownsville Power I, LLC submits an Application for Authorization for Disposition of Jurisdictional Assets.
Filed Date: 02/21/2008.
Accession Number: 20080225–0192.
Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: EC08–46–000.
Applicants: Entergy Nuclear Generation Company, Entergy Nuclear

FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Palisades, LLC, Entergy Nuclear Power Marketing, LLC.

Description: Application under Section 203 of the Federal Power Act for authorization of indirect disposition of jurisdictional facilities and requests for waivers of Entergy Nuclear Generation Company *et al.*

Filed Date: 02/21/2008.

Accession Number: 20080225–0194.

Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–2369–004.

Applicants: Alliance for Cooperative Energy Services.

Description: Alliance for Cooperative Energy Services Power Marketing LLC submits amendment to its market-based rate tariff to comply with Order 697.

Filed Date: 02/22/2008.

Accession Number: 20080226–0051.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–321–001.

Applicants: New York Independent System Operator, Inc.

Description: Public Submission of Pages of 12/10/07 Filing Previously Submitted Pursuant to a Claim of Privilege of New York Independent System Operator, Inc.

Filed Date: 02/22/2008.

Accession Number: 20080222–5044.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–397–001.

Applicants: ALLETE, Inc.

Description: ALLETE, Inc submits Original Sheet 7 of Rate Schedule 119 which was inadvertently omitted from the 2/8/08 filing.

Filed Date: 02/22/2008.

Accession Number: 20080226–0053.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–425–001.

Applicants: Energy Exchange Direct, LLC.

Description: Energy Exchange Direct, LLC submits an amended petition for acceptance of initial tariff etc.

Filed Date: 02/22/2008.

Accession Number: 20080226–0052.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–551–001.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co submits the amended Engineering and Procurement Agreement to its 2/11/08 filing.

Filed Date: 02/22/2008.

Accession Number: 20080226–0054.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–590–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed Interim Interconnection Service Agreement with Luke Paper Co *et al.*

Filed Date: 02/22/2008.

Accession Number: 20080226–0055

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–591–000.

Applicants: Wisconsin Public Service Corporation.

Description: Wisconsin Public Service Corp submits the actual 2007 value for billing for post-employment benefits.

Filed Date: 02/22/2008.

Accession Number: 20080226–0056.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–592–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to the Coordination Agreement with Manitoba Hydro.

Filed Date: 02/22/2008.

Accession Number: 20080226–0057.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–593–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp submits a fully executed interconnection agreement with Turkey Track Wind Energy LLC.

Filed Date: 02/22/2008.

Accession Number: 20080226–0058.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–594–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Co submits a Notice of Termination of the Agreement to Implement the Scheduling Coordinator Transition with the County of San Francisco.

Filed Date: 02/21/2008.

Accession Number: 20080226–0059.

Comment Date: 5 p.m. Eastern Time on Thursday, March 13, 2008.

Docket Numbers: ER08–595–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Duke Energy Carolinas, LLC submits the long-term Transmission Service Agreement with the Carolina Power and Light Co.

Filed Date: 02/25/2008.

Accession Number: 20080227–0108.

Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–596–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits amendments to Schedule 12 of the Amended and Restated Operating Agreement to update the member list.

Filed Date: 02/25/2008.

Accession Number: 20080227–0106.

Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–597–000.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Co submits an cancellation of the executed Interconnection Agreement 729.

Filed Date: 02/26/2008.

Accession Number: 20080227–0107.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 18, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the

Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–4204 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 28, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP08–211–000.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: Maritimes & Northeast Pipeline, LLC submits Sixth Revised Sheet 263 and Fourth Revised Sheet 283 of its FERC Gas Tariff, First Revised Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0148.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: RP08–212–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits Third Revised Sheet 553 and Second Revised Sheet 575 of its FERC Gas Tariff, Fifth Revised Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0147.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: RP08–213–000.

Applicants: Egan Hub Storage, LLC.

Description: Egan Hub Storage, LLC submits Fourth Revised Sheet 143 to its FERC Gas Tariff, First Revised Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0146.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: RP08–214–000.

Applicants: Saltville Gas Storage Company L.L.C.

Description: Saltville Gas Storage Company LLC submits Fourth Revised Sheet 143 of its FERC Gas Tariff, Original Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0145.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: RP08–215–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: East Tennessee Natural Gas, LLC submits Third Revised Sheet 337 of its FERC Gas Tariff, Third Revised Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0144.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: RP08–216–000.

Applicants: Texas Eastern Transmission LP.

Description: Texas Eastern Transmission, LP submits Fourth Revised Sheet 602 of its FERC Gas Tariff, Seventh Revised Volume 1, to become effective March 28, 2008.

Filed Date: 02/26/2008.

Accession Number: 20080227–0143.

Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214) on or before 5 p.m. Eastern time on the specified *Comment Date.* It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–4205 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–43–000]

TransCanada Power Marketing Ltd., Complainant, v. ISO New England Inc., Respondent; Notice of Complaint

February 27, 2008.

Take notice that on February 26, 2008, TransCanada Power Marketing Ltd. (TransCanada) filed a Complaint against ISO New England, Inc. (ISO–NE). TransCanada requests that the Commission reverse ISO–NE's disqualification of TransCanada's January 10 composite offers and order ISO–NE to accept TransCanada's January 10 composite offers into the Forward Capacity Auction at the floor price that was established in the February 4–6, 2008 auction.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 18, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4166 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos.: EG08–11–000, EG08–12–000, EG08–13–000, EG08–14–000, EG08–15–000, EG08–16–000, EG08–17–000, EG08–18–000]

Pedricktown Cogeneration Company, LP, McAdoo Energy Wind LLC, Central Power & Lime, Inc., Barton Chapel Wind, LLC, James River Cogeneration Company, Cogentrix Virginia Leasing Corporation, Primary Energy of North Carolina LLC, Langdon Wind, LLC; Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

February 26, 2008.

Take notice that during the month of January 2008, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4160 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–16–000]

Filing Via the Internet; Notice of Release of efiling v7.0

February 28, 2008.

Pursuant to the provisions of Commission Order No. 703, issued November 15, 2007,[1] the Commission will update its electronic filing system to v7.0 (the next version of the Commission's system for filing documents via the Internet) over the weekend of March 1, 2008. This version includes, but is not limited to the following enhancements:

1. Expands the documents eligible for efiling to include most application-type filings that receive a new docket number (with the exception of filings containing tariff sheets) and those forms and reports that are filed without a docket number.

2. Permits documents containing Privileged and/or Critical Energy Infrastructure Information (CEII) material to be submitted electronically in their entirety.[2]

3. Allows documents in Hydropower proceedings that are normally submitted directly to a FERC Regional Office to be electronically filed.

4. Permits up to 200 files to be uploaded in each of the Public, Privileged, and CEII security classes.

5. Increases the maximum file size to 50 Mb.[3]

6. Expands the file name, including the dot/extension, to 60 characters, and allows certain special characters to be included.

7. Adds an optional document-less alternative for filing Motions to Intervene and Motions to Intervene Out-of-Time.

8. Provides a Quick Comment option for comments on Hydropower Licensing and Natural Gas Pipeline projects.

In accordance with Order No. 703, the deadline for filing in order to receive the same day's filed date remains 5 p.m. Eastern Time.

Concurrent with the new release, the Commission Staff will update information on its Web site that pertains to electronic filing. The primary change will be an expanded Filing Guide/Qualified Documents List that identifies filings types by regulation and indicates whether the associated documents may be submitted electronically or not.[4] The Guide also indicates the appropriate menu choice for the various filings and the number and routing of any ''courtesy'' paper copies for staff, where such paper copies are required.

In addition to the above enhancements, users should note the following guidelines and staff preferences for using the new system.

Staff/Courtesy Copies of Certain eFiled Documents

For certain documents submitted via efiling, the filer will be obligated to provide one or more paper copies for staff use by the next business day after efiling. The document types that require paper copies are identified in the Filing Guide/Qualified Documents List; the Guide also indicates the destination/routing for those copies. In certain cases, the copies may have to be provided to the jurisdictional Regional Office.

Staff will post routing and forms of address for the various locations for staff copies. In order to ensure that staff copies of efiled documents are not treated as new paper submissions, each copy of the document should have a cover letter indicating the destination address with a paper copy of the Confirmation of Receipt e-mail from the efiling session attached.

File Formats

The acceptable file formats for electronic submission are listed in Attachment A. They are the same as those permitted for filing on CD/DVD posted at: *http://www.ferc.gov/help/submission-guide/electronic-media/acceptable.asp*. Users may upload zipped files to simplify the browse, select and attach process for submissions with a large number of files. The system will explode the zipped file to display the individual files in the file upload list. Embedded

[1] *Filing Via the Internet*, Order No. 703, 72 FR 65,659 (November 23, 2007), FERC Stats. & Regs. ¶ 61,171 ¶ 31,259 (2007) (Order No. 703).

[2] Information subject to a Protective Order issued by an Administrative Law Judge or for which a Protective Order is requested is not eligible for efiling.

[3] The 50 Mb limit is intended for single maps and drawings that cannot easily be split into smaller files. The practical limit for most files remains 10–20 Mb in order to make files more accessible.

[4] The Filing Guide/Qualified Documents List also includes those forms submitted through the eForms or Electric Quarterly Reports (EQR) systems.

.zip files within a .zip file are not permitted.

Text-Searchable vs. Image Formats

In accordance with Order No. 703, PDF files must be submitted in a manner that retains the ability to search the document (''print to PDF'') except in cases where it is impractical for the filer to do otherwise. The Commission's electronic filing system is not only for the benefit of filers, it is also intended to make the information submitted more usable for staff analysis. Image formats inhibit the latter objective and must be reserved for documents not readily available in a text-searchable format.

File Names and Security

Since the new system accepts Public, Privileged, and CEII material, file organization and the upload process will be critical to ensuring that non-public information remains secure. Files should be organized by security class in advance of filing, either by saving them in security-specific directories or folders, or by beginning each file name with ''PUBLIC,'' ''PRIVIL,'' or ''CEII.'' There is a separate security tab on the file upload screen for each security class.

Service Lists

In addition to updating service lists for Motions to Intervene, the new system will automatically add the Applicant Name(s) and all eRegistered contacts for the Applicant(s) to the service list for newly created dockets. For any filing that receives a new Docket or Project Number, the submitter must add the eregistered e-mail addresses for all persons that should appear on the service list. Only those contacts entered online by the filer will be added to the service list for a particular filing. The system will also automatically update service lists for the party and contacts in responses to formal complaints under 18 CFR 385.206.

Document-less Intervention

The new release provides an optional document-less method for filing Motions to Intervene, including out-of-time motions. The document-less alternative should only be used to intervene. Comments, protests, and other motions should be filed separately. The traditional file attachment method is also available.

All contacts to be added to a service list must have validated eRegistration accounts, regardless of the method used to intervene. Instead of uploading a file, the document-less alternative prompts the submitter to key or copy/pastes the basis for intervening (18 CFR 385.214(b)) in a text box.[5] The system creates a placeholder document from the information submitted for the record in eLibrary. Attachment B contains the instructions for submitting a document-less Motion to Intervene and displays a sample FERC Generated placeholder document in eLibrary.

Quick-Comment

The Commission does not accept comments for the record via e-mail. A number of users have complained that the existing efiling system is too complicated for individuals to submit comments, particularly if they are first-time filers. Version 7.0 adds a Quick Comment process that addresses these concerns. It provides a simpler alternative to the traditional electronic filing system for submitting comments to the Commission in certain proceedings.

Quick Comment does not require an FERC eRegistration account. It is primarily intended for landowners and other stakeholders impacted by a single Hydropower Licensing or Natural Gas Pipeline Project. Its use is limited to the following docket/project designations: P (Hydro), PF (Natural Gas Pre-Filing), and CP (Natural Gas Pipeline Certificate Applications). Quick Comment relies on an e-mail-like process that both validates the e-mail address of the commenter and prevents spam attacks.

Quick Comment has a limit of 6,000 characters. Persons submitting more extensive comments, non-text or file attachments, or any material that is Non-Public must use the efiling system.

The system creates a placeholder document from the information entered during the Quick Comment process and adds that document to the applicable Public record(s) in eLibrary. Attachment C contains the instructions for submitting a Quick Comment and displays a sample FERC Generated placeholder document in eLibrary.

Kimberly D. Bose,
Secretary.

ATTACHMENT A.—ACCEPTABLE FILE FORMATS

Description	Suffix
Adobe Portable Document Format (Acrobat 4.x or higher)	.PDF
Advantica SynerGEE compatible Microsoft Access application MDB file [1]	.MDB
Advantica SynerGEE input data set for pipe flow program [1]	.PD
Advantica SynerGEE xy coordinate text file [1]	.XY
ASCII Comma Separated Value	.CSV
ASCII Text Format	.TXT
AutoCAD Drawing database [1]	.DWG
Corel WordPerfect	.WPD
ESRI Shape Format (vector format created by the Environmental System Research Institute) main file [1]	.SHP
ESRI Shape Format (vector format created by the Environmental System Research Institute) index file [1]	.SHX
ESRI Shape Format (vector format created by the Environmental System Research Institute) dBase table [1]	.DBF
ESRI Shape Format (vector format created by the Environmental System Research Institute) projection file [1]	.PRJ
ESRI ArcGIS auxiliary file [1]	.AUX
ESRI ArcGIS external pyramid layer file used for rapid display of raster files [1]	.RRD
ESRI ArcMap project file [1]	.MXD
ESRI ArcIMS Project file (ArcXML) [1]	.AXL
ESRI ArcView spatial bin file for shapefiles [1]	.SBN
ESRI ArcView spatial bin index file for shapefiles [1]	.SBX
ESRI TIFF world files [3]	.TFW
ESRI ArcGIS MrSid (LizardTech) image raster file [1]	.SID
ESRI ArcGIS MrSid georeferencing information (world) file [1]	.SDW
Extensible Markup Language	.XML

[5] Persons intervening ''out-of-time'' will also have to show good cause why the time limitation should be waived.

ATTACHMENT A.—ACCEPTABLE FILE FORMATS—Continued

Description	Suffix
Graphic Image Format	.GIF
Gregg Engineering WinFlow library file [1]	.LIB
Gregg Engineering WinFlow output file [1]	.LOG
Gregg Engineering WinFlow output file [1]	.NTP
Gregg Engineering WinFlow output file [1]	.OVR
Gregg Engineering WinFlow input file [1]	.WFP
Gregg Engineering WinTran time-varying schedule file [1]	.SCH
Gregg Engineering WinTran output file [1]	.WTO
Gregg Engineering WinTran output file [1]	.WTS
Joint Photographic Experts Group	.JPG
Keyhole Markup Language (xml-based structure for geographic data in an Earth browser such as Google Earth) [1]	.KML
Keyhole Markup Language compressed file [1]	.KMZ
Lotus	.WK1, .WK3, .WK4
Microsoft Excel [3]	.XLS
Microsoft Media Player [2]	.WMV, .WMA
Microsoft Power Point	.PPT, .PPS
Microsoft Word [3]	.DOC
Motion Picture Experts Group [2]	.MPG
MP3 audio file (mp3) [2]	.MP3
Managing and Utilizing System Transmission (MUST) Software [1]	.CON, .MON, .SUB, .TRA
RAW Image File (RGB 24-bit Graphics)	.RAW
Rich Text Format	.RTF
Tagged Image File Format	.TIF
Waveform sound (Microsoft Windows) [2]	.WAV
Web page file containing Hypertext Markup Language (HTML) markup	.HTM
Windows bitmap	.BMP
Zip file compressed archive (must not be self-extracting)	.ZIP

[1] A detailed description of the content of the file and instructions for the public on how to obtain resources to view it must be included with the submission in light of National Archives and Records Administration regulations. This file type must only be submitted with Advantica SynerGEE, AutoCAD, ESRI, WinFlow, or WinTran files.

[2] A written transcript and a detailed description of the content of the file must be included with the submission in light of the Americans with Disabilities Act.

[3] FERC is not able at this time to accept the following file types used by Microsoft Office 2007: .docx, .docm, .xlsb, .xlsm, .xltx, .xltm, .xlam. We will update these guidelines when we can accept these file types.

Attachment B: Document-less Intervention (with Sample FERC Generated PDF document in eLibrary)

Document-less intervention is an optional method for parties to intervene in a proceeding. It is for intervention only. Substantive comments on the merits of the proceeding, protests, or other motions should be filed separately using the efiling system.

Motions to Intervene are timely or out-of-time, depending on whether they are submitted before or after 5 p.m. Eastern Time on the deadline for filing specified in the Commission's Notice of Filing. The filed date and time is normally determined at the time of file upload. Since there is no file upload step for a document-less intervention, all information should be submitted prior to 5 p.m. in order to receive the same day's filing date.

Filing Type Selection: On the Filing Type Screen

(1) Select ''General'' in Column 1

(2) Select ''Intervention'' in Column 2

(3) In Column 3, select either

a. ''(doc-less)'' Motion to Intervene, or

b. ''(doc-less)'' Out-of-Time Motion to Intervene

Select Docket: Query and select the applicable Docket or Project Number(s). We currently maintain all service lists only at the –000 sub-docket level.

Text Box Information: After you query and select the applicable Docket (or Project) Number, you should key or copy/paste the basis for intervening in the text box. This is the information in 18 CFR 385.214(b). For ''Out-of-time'' Motions to Intervene the submitter must also show good cause why the time limitation should be waived.

Filing Party(ies): On the Filing Party screen, query and select the party or parties that should appear on the service list. In a joint or several motion, select each party individually. Do not add the law firm filing on behalf of a client company.

Specify the Person(s) to Whom Communication Should Be Addressed: There is now just one screen for entering all contacts. The filing party or parties you selected on the previous screen appear at the top of the Communications screen with a radio button adjacent to each party. Select a party, enter the e-mail address for a contact, and add the contact as either a signer/representative or other contact. You can associate the same contact with multiple parties simply by selecting a different radio button and adding the contact to the list. Repeat the process for each additional contact.

Each party must have at least one signer/representative on the service list. This is the signer or other legal representative for the party. In most cases it's the attorney at the company appearing on the service list or at the law firm representing that company. You can enter more than one signer/representative for a party.

An Other Contact (optional) is normally a person affiliated with the party on the service list that should be served. They are involved in the proceeding but not necessarily as the legal representative of the party. All entries will be added to the service list regardless of how you designate them.

After you have added all contact information, follow the remaining screens. You must click on ''Submit'' on the last screen to confirm that you want to make the filing.

Format of ''FERC Generated PDF'' in eLibrary for Document-Less Intervention (system-generated from the information entered online)

20080227–5041 FERC PDF (Unofficial) 2/27/2008 2:09:29 PM

Submission Description: Motion to Intervene (document-less) of ABC Pipeline Company, et. al. under CP05–1–000.

Submission Date: 2/27/2008. 2:09:29 PM

Filed Date: 2/27/2008. 2:11:24 PM

FILING PARTY/CONTACTS

Filing party	Signer (Representative)	Other contact (Principal)
ABC Pipeline Company	*brooks.carter@ferc.gov*	*melissa.ferebee@ferc.gov.*
XYZ Pipeline Company	*brooks.carter@ferc.gov*	*Adam.Ulsh@ferc.gov.*

Dockets

CP05–1–000 Construct/Operate w/$; new supply attachment; proposes to construct a new measurement and regulating station; requests authorization in order to operate by 12/15/04.

Basis for Intervening [this is a system-generated label]:

[Information inserted online in the text box begins here] This is the information keyed or copy/pasted in the text box to comply with 18 CFR 385.214(b). There is a limit of 6,000 characters for the text box. Substantive comments on the merits, protests, and other motions should be filed separately using the file attachment process and appropriate filing type.

Attachment C: Quick Comment in P, PF, and CP Dockets (With Sample FERC Generated PDF Document in eLibrary)

FERC's Quick Comment Option is an easy way for individuals and other interested persons to submit text comments in the following proceedings:

- Hydroelectric License/Relicense Proceedings (P—Project Number),
- Pre-Filing Activity for Planned Natural Gas Projects (PF Docket), and
- Applications for Authorization to Construct a Natural Gas Pipeline, Liquefied Natural Gas (LNG) or Other Facility (CP Dockets).

The Quick Comment system does not require an FERC eRegistration account. There is a limit of 6,000 characters and all information must be Public. The system is for text comments only and may not be used to intervene or submit other information to the Commission.

Persons filing more extensive comments (more than 6,000 characters), non-text material, other attachments, or filing Privileged or Critical Energy Infrastructure Information (CEII) must use the Commission's eFiling system instead of Quick Comments. The eFiling system requires that you have an unrestricted eRegistration account (unrestricted in this case means an account that is not limited to eSubscription only).

It makes no difference which system—Quick Comments or eFiling—you use to submit comments. All comments submitted under either option are placed in the Record for the specified docket or project number(s).

To Use Quick Comment:

1. From the FERC Online Home page, click on the ''Quick Comment'' link.
2. The system returns an ''Authorize Quick Comment:'' screen. Key in your Name, e-mail address, and Phone Number (optional) in the labeled fields.
3. Key in the characters in the picture in the field below the picture. If you have difficulty reading the characters, click on the speaker icon next to the picture to hear the code (be sure the volume on your PC is high enough). After keying in the characters, click on Submit.
4. You will see the message: ''Thank you for your interest in submitting Quick Comments to FERC. You will receive an e-mail with detailed instructions on how you can submit your Quick Comment.'' The e-mail is sent to the e-mail address you entered on the first screen.
5. Check your e-mail account for a ''Confirmation of Quick Comment'' e-mail. Click on the link in the e-mail to display the ''Submit Quick Comment'' screen.
6. You can query and select the docket or project number(s) applicable to your comment (click on Search) or you can use the Quick Entry method. For Quick Entry, key in the docket or project number in the box for the docket number. Use the Search option if you are unsure about the format. You may add additional docket or project numbers provided your comments pertain to them.
7. Key or Copy/Paste your text comments in the large text box. There is a counter below the box to tell you how much space you have left for comments. If you entered a name at the beginning of the process for an association or organization, you must include the name of an individual responsible for the filing and contact information in the text box.
8. Click on Submit Comment.
9. You will receive a Confirmation of Receipt e-mail. Your comments will be added to the record in eLibrary in the docket or project number(s) you selected at the beginning of the process.

Format of ''FERC Generated PDF'' in eLibrary for a Quick Comment (System-Generated From the Information Entered Online)

20080227–5043 FERC PDF (Unofficial) 2/27/2008 3:07:27 PM
Comment of Brooks Carter in Docket(s)/Project(s) CP05–1–000
Submission Date: 2/27/2008
[Information keyed or copy/pasted in the text box begins here] These are my comments on the _____ Project in CP05–1.* * * There is a limit of 6,000 characters and all comments will be placed in the Public record for the proceeding.
Name and Address [appears only if you added this information in the text box after your comments]

[FR Doc. E8–4218 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–67–001]

Ameren Services Company; Notice of Filing

February 28, 2008.

Take notice that on January 28, 2008, pursuant to the Commission's December 14, 2008 Order, Ameren Services Company filed a refund report.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or

protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 10, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4222 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–72–000]

Northern Border Pipeline Company; Notice of Filing

February 26, 2008.

Take notice that on February 13, 2008, Northern Border Pipeline Company (Northern Border), P.O. Box 542500, Omaha, Nebraska 68154–8500, filed an application, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations, requesting the issuance of a certificate of public convenience and necessity authorizing the construction, ownership, and operation of a compressor station along with a new receipt point interconnection and appurtenant facilities (Des Plaines Project) in Will County, Illinois. The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The Des Plaines Project is proposed in response to a request of Northern States Power Company, to obtain firm backhaul transportation service of 59,681 Dth/day from a receipt point interconnection with ANR Pipeline Company (ANR) located in Will County Illinois to a delivery point at Ventura, Iowa. The proposed project will consist of one 1,600 horsepower natural gas compressor and related facilities along with a new meter station interconnecting with ANR. The project has a maximum design capacity of 60,000 Dth/day and will be located on property owned by Northern Border. The estimated cost to construct the facilities is $17,221,000. Northern Border proposed an in-service date of November 1, 2008.

Any questions regarding the application are to be directed to Bambi Heckerman, Manager, Regulatory Affairs, Northern Border Pipeline Company, 13710 FNB Parkway, Omaha, NE 68154–5200; phone number (402) 492–7575 or by e-mail at *bambi_heckerman@transcanada.com*.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: March 18, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4163 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF08–3021–000]

Southeastern Power Administration; Notice of Filing

February 26, 2008.

Take notice that on February 8, 2008, the Deputy Secretary, U.S. Department of Energy, pursuant to the authority vested by the Department of Energy's Delegation Order Nos. 00–001.00C and 00–037.00, and by sections 302(a) and 301(b) of the Department of Energy Organization Act (Pub. L. 95–91), submitted for confirmation and approval on a final basis, Interim Rate Schedules CBR–1–F, CSI–1–F, CEK–1–F, CM–1–F, CC–1–F, CC–1–G, CK1–F, and CTV–1–F, effective February 25, 2008, through September 30, 2008.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll-free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 10, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4162 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF08–7–000]

Liberty Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Liberty Gas Storage Expansion Project and Request for Comments on Environmental Issues

February 28, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will describe the environmental impacts of constructing and operating the Liberty Gas Storage, LLC's (Liberty) proposed Liberty Gas Storage Expansion Project (Project) located in Cameron and Calcasieu Parishes, Louisiana. The FERC will be the lead federal agency in the preparation of this EA which will satisfy the requirements of the National Environmental Policy Act (NEPA) and will be used by the FERC to consider the environmental impacts that could result if the Commission issues Liberty a Certificate of Public Convenience and Necessity (Certificate) under Section 7 of the Natural Gas Act.

This notice announces the beginning of the scoping process[1] we will use to gather input from the public and interested agencies about the proposed Project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on March 28, 2008.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We encourage government representatives to notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Liberty representative about the acquisition of an easement to construct, operate, and maintain facilities necessary for the proposed Project. Liberty would seek to negotiate a mutually acceptable agreement. However, if the Project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Liberty could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Proposed Project

Liberty is proposing to construct and operate a new natural gas storage facility on an existing 159.5-acre industrial site, west of Hackberry, in Cameron Parish, Louisiana. The proposed facility would primarily consist of: Four salt dome caverns capable of storing approximately a total of 24 billion cubic feet of natural gas; an 18,940 horsepower compressor station; and an approximately 5.2-mile-long, 36-inch-diameter natural gas pipeline. Specifically, Liberty is seeking authority to:

- Convert three existing salt dome caverns and develop one new salt dome cavern for natural gas storage;
- Install groundwater supply wells and pipelines;
- Construct a brine pumping system and reservoir;
- Construct a compressor station containing four natural gas driven reciprocating compressors;
- Utilize construction staging areas and access roads; and
- Construct other minor natural gas facilities associated with storage cavern development, compressor station and pipeline operation.

Liberty is also seeking authority to construct:

- An approximately 5.2-mile-long, 36-inch-diameter natural gas pipeline, beginning at the proposed storage facility site, heading northeast through Black Lake, and connecting to the Cameron Interstate Pipeline in Calcasieu Parish;
- One meter station;
- Four brine disposal wells at an off-site location; and
- An approximately 3.0-mile-long, 16-inch-diameter brine disposal pipeline, beginning at the proposed storage facility site and heading southeast to the proposed disposal wells.

Additionally, Liberty is proposing to:

- Utilize a nominal 100-foot-wide right-of-way (ROW) for construction of the proposed approximately 5.2-mile-long, 36-inch-diameter natural gas pipeline (Liberty has also indicated that pipeline construction through Black Lake would require the use of a significantly wider construction ROW);
- Utilize a nominal 65-foot-wide ROW for construction of the proposed approximately 3.0-mile-long, 16-inch-diameter brine disposal pipeline; and
- Utilize permanent rights-of-way, 50 and 30 feet wide, for maintenance of the natural gas and brine disposal pipelines, respectively.

A general map of the proposed facilities is provided in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities including workspace, staging yards, and access roads would require the temporary use of approximately 336 acres of land. Operation and maintenance of the proposed facilities would require the permanent use of approximately 32 acres of land. Land affected by construction, but not required for operation and maintenance would be restored and allowed to revert to its former use.

The Environmental Review and Assessment Processes

The Commission's staff has initiated a pre-filing environmental review of Liberty's proposed project. The purpose of the pre-filing environmental review is to identify and resolve potential environmental issues prior to the submission of an application for a Certificate by Liberty. During a pre-filing environmental review, the public is encouraged to comment on environmental issues related to the proposed Project.

Upon completion of staff's pre-filing environmental review, Liberty has indicated that it would file an application for a Certificate. Based upon

[1] The National Environmental Policy Act requires the Commission to undertake a process to identify and address concerns the public may have about a proposed project. This process is commonly referred to as the ''scoping process''.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1, are available on the Commission's Web site or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, (202) 502–8371.

the pre-filing environmental review, and Liberty's application; staff, will prepare the EA.

The EA will discuss the environmental impacts resulting from the construction and operation of the proposed Project under the following headings:

- Geology and Soils
- Water Resources and Wetlands
- Fisheries, Vegetation and Wildlife
- Threatened and Endangered Species
- Air and Noise Quality
- Land Use
- Cultural Resources
- Pipeline Safety and Reliability

The Commission's staff will also evaluate possible alternatives to the proposed Project including system and route alternatives and make recommendations on how to lessen or avoid impacts to affected environmental resources.

As noted previously, the NEPA requires the Commission to undertake a process to identify and address concerns the public may have about a proposed project. This process is commonly referred to as the ''scoping process''. The main goal of the scoping process is to identify public concerns so that they can be considered in the Commission's environmental review. Therefore, to satisfy scoping requirements, with this notice, the Commission requests comments on environmental issues that should be considered in its environmental review and assessment. To ensure your comments are considered, please carefully follow the instructions in the public participation section of this notice.

Upon completion of the staff's environmental review and depending on the issues identified and/or comments received during the ''scoping'' process, the EA may be published and mailed to federal, state and local government agencies; elected officials; environmental and public interest groups; affected landowners; other interested parties; local libraries and newspapers; and the Commission's official service list for this proceeding. A 30-day comment period would be allotted for review of the EA if it is published. Staff would consider all comments submitted concerning the EA before making their recommendations to the Commission.

Federal, state, or local agencies wishing to participate in staff's environmental review and the subsequent development of an EA may request ''cooperating agency'' status. Cooperating agencies are encouraged to participate in the scoping process and provide staff with written comments concerning the proposed Project. Agencies wanting to participate as a cooperating agency should submit a letter to the Commission describing the extent to which it would like to be involved.

Currently Identified Environmental Issues

The Commission's staff has already identified numerous environmental issues it thinks deserves consideration based on its review of preliminary information submitted by Liberty. These issues include potential impacts to:

- Land use;
- Residences;
- Groundwater;
- Wetlands; and
- Wildlife.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed Project. By becoming a commentor, your comments and concerns will be considered in the environmental review, addressed in the EA and considered by the Commission. Generally, comments are submitted regarding potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded, please mail them to our office on or before March 28, 2008. When filing comments please:

- Send an original and two copies of your letter to:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

- Label one copy of your comments to the attention of Gas Branch 2, DG2E; and reference Pre-Filing Docket No. PF08–7–000 on the original and both copies.

Please note that the Commission encourages the electronic filing of comments. To file electronic comments online please see the instructions [3] on the Commission's Web site at *http://www.ferc.gov*. Please note before you can file electronic comments with the Commission you will need to create a free online account.

Once Liberty files an application for a Certificate with the Commission, a stakeholder may choose to become an official party to the proceeding known as an ''intervenor.'' Intervenors are allotted a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. Instructions for becoming an intervenor are available on the Commission's Web site. Please note that requests to intervene will not be accepted until an application for a Certificate is filed with the Commission.

Environmental Mailing List

An effort has been made to send this notice to all individuals, organizations, and government entities that might be interested in and/or potentially affected by the proposed Project. This includes all landowners who are potential right-of-way grantors, landowners whose property may be used temporarily for project purposes, and landowners with homes within distances defined in the Commission's regulations of certain aboveground facilities. If you would like to remain on the environmental mailing list for this proposed Project, please return the Mailing List Retention Form found in Appendix 2. If you do not comment on this proposed Project or return this form, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about the proposed Project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or through the Commission's ''eLibrary'' which can be found online at *http://www.ferc.gov*. For assistance with the Commission's ''eLibrary'', contact the helpline at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*.

Additionally, the FERC now offers a free service called eSubscription that allows stakeholders to keep track of all formal issuances and submittals in specific dockets. This service can reduce the amount of time stakeholders spend researching proceedings by automatically providing them with notification of filings, document summaries, and direct links to documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

If applicable, public meetings or site visits associated with this proposed Project will be posted on the Commission's calendar which can be found online at *http://www.ferc.gov/EventCalendar/EventsList.aspx*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4224 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 Code of Federal Regulations 385.2001(a)(1)(iii).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–68–000]

Trunkline LNG Company, LLC; Notice of Intent to Prepare an Environmental Assessment for the Proposed Pipeline Compressor Addition Project and Request for Comments on Environmental Issues

February 28, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the proposed Pipeline Compressor Addition Project (Project) involving the construction and operation of facilities by Trunkline LNG Company, LLC (Trunkline LNG) in Calcasieu Parish, Louisiana.[1] The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

A brochure prepared by the FERC entitled ''A Guide to LNG—What All Citizens Should Know'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This brochure addresses a number of typically asked questions, including what is LNG and how is it transported.

Summary of the Proposed Project

Trunkline LNG seeks authority to construct, install and operate on land owned by Trunkline LNG:

- One new 1,500 horsepower electric motor-driven compressor in parallel with the existing pipeline compressor;
- Related piping; and
- Associated electrical connections and instrumentation.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the project would occur entirely within the existing 125 acre Trunkline LNG terminal site. The temporary and permanent footprints of the project area would not exceed more than 0.1 acre of previously disturbed land currently covered with concrete.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA, we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and Soils.
- Land Use.
- Water Resources, Fisheries, and Wetlands.
- Cultural Resources.
- Vegetation and Wildlife.
- Threatened and Endangered Species.
- Air Quality and Noise.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified the following issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Trunkline LNG. This preliminary list of issues may be changed based on your comments and our analysis.

- The operation of the proposed compressor would contribute to noise generated by the existing Trunkline LNG facility.
- No impacts would occur to water resources, fisheries, wetlands, vegetation or wildlife. Other than air quality and noise, all impacts would occur within existing Trunkline LNG property.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of OEP/DG2E, Gas Branch 3.
- Reference Docket No. CP08–68–000.
- Mail your comments so that they will be received in Washington, DC on or before March 31, 2008.

We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

[1] On February 1, 2008, Trunkline LNG filed its application with the Commission under section 7(c) of the Natural Gas Act, 15 United States Code § 717(b)(a), and Parts 157 and 284 of the Commission's regulations. The Commission issued its Notice of Application on February 12, 2008.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor''. To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov.* Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with email addresses may be served electronically; others must be served a hard copy of the filing.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who own land within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4219 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–387–000; ER08–387–001]

Atlantic Renewable Projects II LLC; Notice of Issuance of Order

February 28, 2008.

Atlantic Renewable Projects II LLC (Atlantic Renewables) filed an application for market-based rate authority, with an accompanying market-based rate tariff. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Atlantic Renewables also requested waivers of various Commission regulations. In particular, Atlantic Renewables requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Atlantic Renewables.

On February 22, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34 (Director's Order). On February 28, 2008, an Errata was issued to the Director's Order which stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Atlantic Renewables, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is March 24, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Atlantic Renewables is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Atlantic Renewables, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Atlantic Renewables' issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4221 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–401–000]

Cheyenne Light, Fuel and Power Company; Notice of Issuance of Order

February 27, 2008.

Cheyenne Light, Fuel and Power Company (Cheyenne) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Cheyenne also requested waivers of various Commission regulations. In particular, Cheyenne requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Cheyenne.

On February 26, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Cheyenne, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is March 27, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Cheyenne is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Cheyenne, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Cheyenne's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4168 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–371–000; ER08–371–001

Cooperative Energy Incorporated; Notice of Issuance of Order

February 27, 2008.

Cooperative Energy Incorporated (Coop Energy) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. Coop Energy also requested waivers of various Commission regulations. In particular, Coop Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Coop Energy.

On February 26, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Coop Energy, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is March 27, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Coop Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Coop Energy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Coop Energy's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4167 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–443–000]

Helios Energy, LLC; Notice of Issuance of Order

February 27, 2008.

Helios Energy, LLC (Helios) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Helios also requested waivers of various Commission regulations. In

particular, Helios requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Helios.

On February 26, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Helios, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is March 27, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Helios is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Helios, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Helios' issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4164 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–466–000; Docket No. CP06–467–000]

Columbia Gas Transmission Corporation: Somerset Gas Gathering of Pennsylvania, L.L.C.; Notice of Meeting

February 28, 2008.

On March 19, 2008, staff of the Office of Energy Projects (OEP) will hold a meeting on the pending applications in the above referenced dockets. The purpose of the meeting is to discuss various procedural matters and to clarify certain elements of the proposal. Any interested persons may attend.

The meeting will be held on Wednesday, March 19, 2008, at 2 p.m. (EST), in Room 62–22 at the Commission Headquarters in Washington, DC.

Commission meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–(866) 208–3676 (voice). For TTY, call (202) 502–8659 or send a FAX to 202–208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4225 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12632–000]

East Texas Electric Cooperative, Inc.; Notice of Scoping Meeting and Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process

February 28, 2008.

a. *Type of Application:* Alternative Licensing Process.

b. *Project No.:* 12632–000.

c. *Applicant:* East Texas Electric Cooperative, Inc. (Cooperative).

d. *Name of Project:* Lake Livingston Hydroelectric Project.

e. *Location:* At the Lake Livingston dam, on the Trinity River, in San Jacinto, Polk, Trinity, and Walker Counties, Texas. No federal lands would be affected.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Potential Applicant Contact:* Edd Hargett, East Texas Electric Cooperative, Inc., 2905 Westward Drive, P.O. Box 631623, Nacogdoches, TX 75963; (936) 560–9532; e-mail—*eddh@gtpower.com.*

h. *FERC Contact:* Sarah Florentino, at (202) 502–6863 or *sarah.florentino@ferc.gov.*

j. *Deadline for filing scoping comments:* April 25, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The proposed project would use the following existing facilities: (1) The Trinity River Authority's (TRA) existing 14,400-foot-long (approximate) Lake Livingston dam, having a crest elevation of 145.0 feet mean sea level (msl), and consisting of a basic earth embankment section, outlet works, and spillway; and (2) the 83,000-acre Lake Livingston, with a normal water surface elevation of 131.0 feet msl and gross storage capacity of 1,750,000 acre-feet. The proposed project would consist of the following new facilities: (1) An intake structure and headrace channel approximately 800 feet long; (2) three steel penstocks, about 14 feet in diameter and 450 feet in length; (3) a powerhouse containing three generating units, having a total installed capacity of 24 MW; (4) an approximate 2,000-feet-long tailrace channel; (5) an approximate 2.5-mile-long, 138-kilovolt transmission line interconnecting the project with Entergy's existing Rich substation near

Goodrich; and (6) an electric switchyard and other appurtenant facilities. The project would have an estimated annual generation of 124.030 gigawatt-hours, which the Cooperative would sell at wholesale to its constituent electric cooperatives.

l. Scoping Process

The Cooperative will use the Commission's alternative licensing process (ALP). Under the ALP, the Cooperative will prepare an Applicant Prepared Environmental Assessment (APEA) and license application for the Lake Livingston Hydroelectric Project.

The Cooperative expects to file with the Commission, the APEA and the license application for the Lake Livingston Hydroelectric Project by March 2009. Although the Cooperative's intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

The purpose of this notice is to inform you of the opportunity to participate in the upcoming scoping meetings identified below, and to solicit your scoping comments.

Scoping Meetings

The Cooperative and Commission staff will hold two scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the APEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the environmental issues that should be analyzed in the APEA. The times and locations of these meetings are as follows:

Daytime meeting	Evening meeting
Wednesday, March 26, 2008 1:30 p.m. to 3:30 p.m. Central Standard Time (CST)	Wednesday, March 26, 2008 6 p.m. to 8 p.m. CST
Community Meeting Room, Livingston-Polk County Chamber of Commerce, 1001 U.S. Hwy 59 Loop North, Livingston, Texas 77351. (936) 327–4929	

To help focus discussions, Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the APEA, was mailed to the individuals and entities on the Commission's mailing list and the Cooperative's distribution list on February 27, 2008. Copies of the SD1 also will be available at the scoping meetings. SD1 is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Based on all written comments received, a Scoping Document 2 (SD2) may be issued. SD2 will include a revised list of issues, as determined by the scoping process.

Meeting Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the APEA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the APEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the APEA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the Cooperative and Commission staff in defining and clarifying the issues to be addressed in the APEA. Please review the Cooperative's Preliminary Application Document (PAD) and SD1 in preparation for the scoping meetings. Instructions on how to obtain copies of the PAD and SD1 are included above.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Site Visit

The Cooperative and Commission staff will conduct a site visit of the project on Wednesday, March 26, 2008, following the afternoon session of the scoping meeting.

The site visit to Lake Livingston dam will take place at TRA's Lake Livingston project headquarters. The physical address of the project is 5170 S. FM 1988, Livingston, Texas 77351. Access to the dam site is secure, and all individuals wishing to participate in the site visit must register and provide a copy of a photo identification in advance. If you want to attend the site visit, please notify Brian Lawson, the Cooperative's Project Manager, and send him a faxed or scanned copy of a photo ID not later than March 19, 2008, using the following contact information: Brian Lawson, Project Manager, GDS Associates, Inc., 1850 Parkway Place, Suite 800, Marietta, GA 30067, Phone: 770–425–8100, Fax: 770–426–0303, *Brian.Lawson@GDSassociates.com.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4223 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–74–000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

February 28, 2008.

Take notice that on February 15, 2008, Equitrans, L.P. (Equitrans), 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, filed in Docket No. CP08–74–000, a prior notice request pursuant to sections 157.205 and 157.210 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to construct approximately 1.38 miles of 12-inch diameter pipeline parallel to its existing 6-inch Line No. M–80, located in Greene County, Pennsylvania, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, Equitrans proposes to construct approximately 1.38 miles of 12.75-inch diameter steel pipeline, which will be designated as Line H–158, parallel to Line No. M–80. Equitrans estimates the cost of construction to be $1,845,354. Equitrans states that the construction project is driven by the need for increased operational flexibility and reliability. Equitrans declares that it does not anticipate any interruption to firm service during construction activity. Equitrans avers that construction is anticipated to be complete in summer 2008.

Any questions regarding the application should be directed to David K. Dewey, Vice President & General Counsel, Equitrans, L.P., 225 North Shore Drive, Pittsburgh, Pennsylvania 15212, call (412) 395–2566 or fax (412) 395–3347.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4220 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–73–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

February 27, 2008.

Take notice that on February 15, 2008, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP08–73–000, a prior notice request pursuant to sections 157.205 and 157.210 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to modify two existing compressors and station suction piping at the Hesston Compressor Station, located in Harvey County, Kansas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, Southern Star proposes to upgrade and clean-burn two existing compressor units in order to increase the horsepower of each unit from 1,100 horsepower to 1,350 horsepower and to extend by approximately 140 feet, the station suction header to tie-in the suction header to all eight compressor units at the station. Southern Star estimates the cost of construction to be $4,679,749.

Southern Star further states that the proposed compression upgrade and piping modification will be required to achieve higher discharge pressures required to reliably flow contractual firm volumes that Westar Energy, Inc. desires to redirect from certain of their existing facilities located south of the Hesston Compressor Station to their new power generation plant east of the station, located in Emporia, Kansas. Southern Star asserts that no additional capacity will be created by the proposed modifications.

Any questions regarding the application should be directed to David N. Roberts, Manager, Regulatory Affairs, Southern Star Central Gas Pipeline, Inc., 4700 State Highway 56, Owensboro, Kentucky 42301, or call (270) 852–4654.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR. 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4165 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–75–000]

Texas Eastern Transmission, LP; Notice of Request Under Blanket Authorization

February 26, 2008.

Take notice that on February 15, 2008, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP08–75–000, a prior notice request pursuant to sections 157.205 and 157.212 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to construct and operate a new receipt point and to receive natural gas, located in Beauregard Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Specifically, Texas Eastern proposes to design and construct a new receipt point to receive natural gas from Cheniere Creole Trail Pipeline, L.P. (Cheniere), consisting of dual 14-inch hot taps on Line No. 14, an existing 30-inch side valve on Line No. 18, electronic gas measurement equipment, and a gas chromatograph. Texas Eastern states that Cheniere will be installing the connecting piping, which will be owned and operated by Texas Eastern. Texas Eastern estimates the cost of construction to be $435,235. Texas Eastern asserts that Cheniere will reimburse Texas Eastern for all costs associated with constructing such facilities. Texas Eastern states that the new receipt point will provide Texas Eastern with the ability to receive up to 500 million cubic feet per day of natural gas from Cheniere into Texas Eastern's pipeline system.

Any questions regarding the application should be directed to Garth Johnson, General Manager, Certificates & Reporting, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, call (713) 627–5415 or fax (713) 627–5947.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4161 Filed 3–4–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8537–7]

Agreement for Recovery of Response Costs and Covenant not to Sue Under the Comprehensive Environmental Response, Compensation, and Liability Act Regarding the Delilah Road Landfill Superfund Site, Egg Harbor Township, Atlantic County, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 et seq., the U.S. Environmental Protection Agency (EPA) announces a proposed administrative settlement to resolve claims under CERCLA. This settlement is intended to resolve the liability of four responsible parties for certain response costs incurred and to be incurred by EPA at the Delilah Road Landfill Superfund Site located in Egg Harbor Township, Atlantic County, New Jersey (Site). The proposed administrative settlement is contained in a Settlement Agreement for recovery of response costs (Agreement) between Atlantic City Electric Company, Lenox, Incorporated, Wyeth Holdings Corporation, and Wyeth (Settling Parties) and EPA. By this Notice, EPA is informing the public of the proposed settlement and of the opportunity to comment.

The Site, consisting of approximately 45 acres, was originally used for sand and gravel excavation, but was later converted to a solid waste disposal area. Landfill operations ceased in 1980. The Site was placed on the National Priorities List (NPL) on October 4, 1984, and in 1986, the New Jersey Department of Environmental Protection (NJDEP) began a remedial investigation and feasibility study (RI/FS) to investigate conditions at the Site and evaluate remedial alternatives. On September 28, 1990, NJDEP issued a Record of Decision (ROD) for the Site which included placement of an impermeable layer cap on the landfill and installation of a gas collection and treatment system. Certain private parties, including some of the Settling Parties or their predecessors, entered into an Administrative Consent Order with NJDEP, as the lead agency for the Site, effective on October 12, 1994, to implement the remedy selected in the ROD. NJDEP issued an Explanation of Significant Differences (ESD) effective September 30, 1998, based on the results of additional groundwater sampling, through which the remedy was modified to provide for a soil cap, rather than the synthetic membrane cap originally selected. Construction of the remedy began in late 2001, and was substantially completed by the summer of 2002. As the support agency for the Site, EPA's costs consist primarily of oversight costs.

Section 122(h) of CERCLA authorizes EPA to consider, compromise and settle certain claims. Under the terms of the proposed Agreement, the Settling Parties will pay $81,410.95 in reimbursement of past and future Site costs incurred by EPA. In exchange, EPA will grant a covenant not to sue or take administrative action against the Settling Parties for reimbursement of past or future EPA Site response costs pursuant to Section 107(a) of CERCLA, subject to reopeners for unknown conditions or new information.

EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. Environmental

Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: (212) 637–3111.

DATES: Comments must be provided by April 4, 2008.

ADDRESSES: Comments should be sent to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007–1866 and should refer to: Delilah Road Landfill Superfund Site, U.S. EPA Docket No. CERCLA–02–2008–2008.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative Agreement may be obtained in person or by mail from Diego Garcia, U.S. Environmental Protection Agency, 290 Broadway—19th Floor, New York, NY 10007–1866. Telephone: (212) 637–4947.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: (212) 637–3139.

Dated: January 24, 2008.

George Pavlou,

Director, Emergency and Remedial Response Division, Region 2.

[FR Doc. E8–4255 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8537–4; 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.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of the second external review draft of a document titled, ''Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' (EPA/600/R–099aB). The document was prepared by the National Center for Environmental Assessment within EPA(s Office of Research and Development as part of the review of the primary (health-based) national ambient air quality standards (NAAQS) for oxides of nitrogen.

EPA is releasing this draft document solely for the purpose of seeking public comment and for review by the Clean Air Scientific Advisory Committee (CASAC) (meeting date and location to be specified in a separate **Federal Register** notice). 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 March 6, 2008. Comments must be received on or before May 5, 2008.

ADDRESSES: The ''Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' 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 telephone: 919–541–4169, facsimile: 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 document title, ''Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' (EPA/600/R–099aB) to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: Dennis Kotchmar, 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 that ''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 is one of six principal (or ''criteria'') pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an Integrated Science Assessment (ISA), formerly called an Air Quality Criteria Document (AQCD). 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 mandated by the Clean Air Act and part of the EPA's Science Advisory Board (SAB), is charged with independent expert scientific review of EPA's draft ISAs.

On December 9, 2005 (70 FR 73236), 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 Scientific Advisory Committee (CASAC) via a publicly accessible teleconference consultation on May 11, 2007 (72 FR 20336). A review of the secondary (welfare-based) NAAQS for Oxides of Nitrogen is being conducted separately, in conjunction with the review of the secondary NAAQS for Sulfur Oxides. 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 first external review draft of this ISA was released for public comment and review by the CASAC on August 31, 2007 (72 FR 50107), and was reviewed by CASAC at a public meeting held on October 24–25, 2007. This second draft document incorporates revisions to address comments raised by CASAC and the public.

The second external review draft Integrated Science Assessment for Oxides of Nitrogen will be discussed at a public meeting for review by CASAC, and public comments received 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 Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2005–0029, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line 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, Room 3334 EPA West Building, 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 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–2005–0029. 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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: Documents in the docket are listed in the *http://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 materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: February 26, 2008.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E8–4232 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2008–0169; FRL–8538–3]

Board of Scientific Counselors Executive Committee Meeting—March 2008

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting (via conference call) of the Board of Scientific Counselors (BOSC) Executive Committee.

DATES: The conference call will be held on Wednesday March 26, 2008 from 9:30 a.m. to 12 noon, eastern time, and may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the calls from Lorelei Kowalski, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2008–0169 by one of the following methods:

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

• *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2008–0169.

• *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2008–0169.

• *Mail:* Send comments by mail to: Board of Scientific Counselors Executive Committee Meeting—March 2008 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–ORD–2008–0169.

• *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2008–0169.

Note: This is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2008–0169. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information 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 *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors Executive Committee Meeting—March 2008 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the conference call may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section. In general, each individual making an oral presentation will be limited to a total of three minutes.

The purpose of this conference call is to review, discuss, and potentially approve: (1) A revised draft letter report prepared by the BOSC National Center for Environmental Research (NCER) Standing Subcommittee; and (2) a draft letter report prepared by the BOSC Computational Toxicology Subcommittee. The conference call is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov.* To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 27, 2008.

Jeff Morris,

Acting Director, Office of Science Policy.

[FR Doc. E8–4240 Filed 3–4–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Technical Releases 8 and 9 and Appointment of New Board Members

Board Action: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April, 2004, notice is hereby given that the Federal Accounting Standards Advisory Board has issued Technical Release 8, *Clarification of Standard Relating to Inter-Entity Costs, and Technical Release 9, Implementation Guide for Statement of FASAB 29: Heritage Assets and Stewardship Land.*

The purpose of Technical Release (TR) 8 is to provide guidance to federal entities on three aspects of full costing specified in SFFAS 4. The purpose of Technical Release (TR) 9 is to assist federal entities in reporting information on heritage assets (HA) and stewardship land (SL) in accordance with SFFAS 29.

The Technical Releases are available on the FASAB Web site at *http://www.fasab.gov* or by calling 202–512–7350.

The Federal Accounting Standards Advisory Board also announces the appointment to the Board of Mr. Norwood Jackson, effective February 2007, and Mr. Harold I. Steinberg, effective July 1, 2007.

For Further Information Contact: Wendy Payne, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: February 28, 2008.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 08–934 Filed 3–4–08; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL ELECTION COMMISSION

[Notice 2008–6]

Filing Dates for the Mississippi Special Election In the 1st Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Mississippi has scheduled a Special General Election on April 22, 2008, to fill the U.S. House of Representatives seat in the First Congressional District formerly held by Senator Roger Wicker. Under Mississippi law, a majority winner in a nonpartisan special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on May 13, 2008, between the top two vote-getters in the Special General Election.

Committees participating in the Mississippi special elections are required to file pre- and post-election reports. Filing dates for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Mississippi Special General and Special Runoff Elections shall file a 12-day Pre-General Report on April 10, 2008; a Pre-Runoff Report on May 1, 2008; and a Post-Runoff Report on June 12, 2008. (See chart below for the closing date for each report.)

If only one election is held, all principal campaign committees of candidates in the Special General Election shall file a 12-day Pre-General Report on April 10, 2008; and a Post-General Report on May 22, 2008. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2008 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Mississippi Special General or Special Runoff Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that support candidates in the Mississippi Special General or Special Runoff Election should continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Mississippi Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

CALENDAR OF REPORTING DATES FOR MISSISSIPPI SPECIAL ELECTION

Report	Close of books[1]	Reg./Cert. & overnight mailing deadline	Filing deadline
If only the special general is held (04/22/08), committees involved must file:			
April Quarterly	—Waived—		
Pre-General	04/02/08	04/07/08	04/10/08
Post-General	05/12/08	05/22/08	05/22/08
July Quarterly	06/30/08	07/15/08	07/15/08
If two elections are held, committees involved only in the special general (04/22/08) must file:			
April Quarterly	—Waived—		
Pre-General	04/02/08	04/07/08	04/10/08
July Quarterly	06/30/08	07/15/08	07/15/08
Committees involved in the special general (04/22/08) and special runoff (05/13/08) must file:			
April Quarterly	—Waived—		
Pre-General	04/02/08	04/07/08	04/10/08
Pre-Runoff	04/23/08	04/28/08	05/01/08
Post-Runoff	06/02/08	06/12/08	06/12/08
July Quarterly	06/30/08	07/15/08	07/15/08
Committees involved only in the special runoff (05/13/08) must file:			
Pre-Runoff	04/23/08	04/28/08	05/01/08
Post-Runoff	06/02/08	06/12/08	06/12/08
July Quarterly	06/30/08	07/15/08	07/15/08

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

Dated: February 28, 2008.

David M. Mason,

Chairman, Federal Election Commission.

[FR Doc. E8–4184 Filed 3–4–08; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 010099–047.

Title: International Council of Containership Operators.

Parties: A.P. Moller-Maersk A/S; ANL Container Line Pty Ltd.; American President Lines, Ltd.; APL Co. Pte. Ltd.; APL Ltd.; Atlantic Container Line AB; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; COSCO Container Lines Co. Ltd; Crowley Maritime Corporation; Delmas SAS; Evergreen Marine Corporation (Taiwan), Ltd.; Hamburg-Süd KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hapag-Lloyd USA LLC; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mediterranean Shipping Co. S.A.; Mitsui O.S.K. Lines, Ltd.; Neptune Orient Lines, Ltd.; Nippon Yusen Kaisha; Norasia Container Line Ltd.; Orient Overseas Container Line, Ltd.; Pacific International Lines (Pte) Ltd.; Safmarine Container Line N.V.; United Arab Shipping Company (S.A.G.); Wan Hai Lines Ltd.; Yang Ming Transport Marine Corp.; and Zim Integrated Shipping Services Ltd.

Filing Party: John Longstreth, Esq.; Kirkpatrick & Lockhart Preston Gates Ellis LLP; 1601 K Street, NW., Washington, DC 20006–1600.

Synopsis: The amendment changes Malaysia International Shipping Corporation's corporate name to MISC Berhad.

Agreement No.: 012029.

Title: MSC/Crowley Bahamas Space Charter Agreement.

Parties: Crowley Liner Service, Inc. and Mediterranean Shipping Co. S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The agreement authorizes the parties to charter space to and from one another between ports in Florida and ports in the Bahamas.

Agreement No.: 012030.

Title: GWF/Maruba Space Charter Agreement.

Parties: Empresa de Navegacion Maruba S.A. and Great White Fleet Ltd. (''GWF'').

Filing Party: Wade S. Hooker, Esq.; 211 Central Park W; New York, NY 20573.

Synopsis: The agreement authorizes Maruba to charter space in the trade on GWF vessels between ports in Florida and ports in Guatemala and Honduras.

By Order of the Federal Maritime Commission.

Dated: February 29, 2008.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–4252 Filed 3–4–08; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 29–30, 2008

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 29–30, 2008.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate at an average of around 3½ percent.

By order of the Federal Open Market Committee, February 26, 2008.

Brian F. Madigan,

Secretary, Federal Open Market Committee.

[FR Doc. E8–4230 Filed 3–4–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First Liberty Capital Corporation Employee Stock Ownership Plan and First Liberty Capital Corporation, both of Hugo, Colorado; to acquire up to 100 percent of the voting shares of First Mountain Bank, Leadville.

Board of Governors of the Federal Reserve System, February 29, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–4211 Filed 3–4–08; 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. E8-3313) published on page 9806 of the issue for Friday, February 22, 2008.

Under the Federal Reserve Bank of New York heading, the entry for Tompkins Financial Corporation, Ithaca, New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. Tompkins Financial Corporation, Ithaca, New York; to acquire and thereby merge with Sleepy Hollow Bancorp Inc., and thereby indirectly acquire voting shares of Sleepy Hollow Bank, both of Sleepy Hollow, New York.

Comments on this application must be received by March 20, 2008.

Board of Governors of the Federal Reserve System, February 29, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–4212 Filed 3–4–08 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 072 3210]

American Cash Market, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 31, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''American Cash Market, File No. 072 3210,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at *http://secure.commentworks.com/ftc-AmericanCashMarket*. To ensure that the Commission considers an electronic comment, you must file it on that web-based form.

The FTC Act and other laws the Commission administers permit the collection of public comments to

[1] Copies of the Minutes of the Federal Open Market Committee meeting on January 29–30, 2008, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Cara Peterson or Quisaira Whitney, FTC Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 27, 2008), on the World Wide Web, at *http://www.ftc.gov/os/2008/02/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from American Cash Market, Inc. (''respondent'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondent engaged in practices that violate Section 144 of the Truth in Lending Act (''TILA''), 15 U.S.C. § 1664, and Section 226.24(c) of its implementing Regulation Z, 12 C.F.R. § 226.24(c). Respondent disseminated payday loan advertisements on the Internet stating the number of payments or period of repayment, or the amount of a finance charge, as terms for obtaining a payday loan. These advertisements failed, however, to disclose the ''annual percentage rate'' or ''APR'' for these loans as required by TILA and its implementing Regulation Z.

TILA and Regulation Z require that advertisers, including payday loan advertisers, disclose APRs on their loans to assist consumers in comparison shopping. The respondent's failure to disclose the APR for its advertised payday loans undermined consumers' ability to compare these loans to those offered by other payday lenders. The respondent's failure to disclose the APR for its advertised payday loans also frustrated consumers' ability to compare these loans to alternative forms of credit. Through its law enforcement actions the Commission intends to promote compliance with the APR disclosure requirements of TILA and Regulation Z, thereby promoting comparison shopping relating to payday loans.

The proposed consent order contains provisions designed to prevent respondent from failing to make disclosures required by TILA and Regulation Z in the future.

Part I.A. of the proposed order prohibits respondent, in connection with any advertisement of consumer credit, from stating the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the terms required by TILA and Regulation Z, including the amount or percentage of the down payment, the terms of repayment, and the annual percentage rate, using that term or the abbreviation ''APR.''

Part I.B. of the proposed order prohibits respondent from stating a rate of finance charge without stating the rate as an ''annual percentage rate'' or the abbreviation ''APR.''

Part I.C. of the proposed order prohibits respondent from failing to comply in any other respect with TILA or Regulation Z.

Part II of the proposed order contains a document retention requirement, the purpose of which is to ensure compliance with the proposed order. It requires that respondent maintain all records that will demonstrate compliance with the proposed order.

Part III of the proposed order requires respondent to distribute copies of the order to various principals, officers, directors, and managers, and all current and future employees, agents and representatives having responsibilities with respect to the subject matter of the order.

Part IV of the proposed order requires respondent to notify the Commission of any changes in its corporate structure that might affect compliance with the order.

Part V of the proposed order requires respondent to file with the Commission one or more reports detailing compliance with the order.

Part VI of the proposed order is a ''sunset'' provision, dictating the conditions under which the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–4304 Filed 3–4–08: 8:45 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 072 3212]

Anderson Payday Loans; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 31, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Anderson Payday Loans, File No. 072 3212,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at *http://secure.commentworks.com/ftc-AndersonPaydayLoans*. To ensure that the Commission considers an electronic comment, you must file it on that web-based form.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Cara Peterson or Quisaira Whitney, FTC Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 27, 2008), on the World Wide Web, at *http://www.ftc.gov/os/2008/02/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Anderson Payday Loans (''respondent'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondent engaged in practices that violate Section 144 of the Truth in Lending Act (''TILA''), 15 U.S.C. § 1664, and Section 226.24(c) of its implementing Regulation Z, 12 C.F.R. § 226.24(c). Respondent disseminated payday loan advertisements on the Internet stating the number of payments or period of repayment, or the amount of a finance charge, as terms for obtaining a payday loan. These advertisements failed, however, to disclose the ''annual percentage rate'' or ''APR'' for these loans as required by TILA and its implementing Regulation Z.

TILA and Regulation Z require that advertisers, including payday loan advertisers, disclose APRs on their loans to assist consumers in comparison shopping. The respondent's failure to disclose the APR for its advertised payday loans undermined consumers' ability to compare these loans to those offered by other payday lenders. The respondent's failure to disclose the APR for its advertised payday loans also frustrated consumers' ability to compare these loans to alternative forms of credit. Through its law enforcement actions the Commission intends to promote compliance with the APR disclosure requirements of TILA and Regulation Z, thereby promoting comparison shopping relating to payday loans.

The proposed consent order contains provisions designed to prevent respondent from failing to make disclosures required by TILA and Regulation Z in the future.

Part I.A. of the proposed order prohibits respondent, in connection with any advertisement of consumer credit, from stating the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the terms required by TILA and Regulation Z, including the amount or percentage of the down payment, the terms of repayment, and the annual percentage rate, using that term or the abbreviation ''APR.''

Part I.B. of the proposed order prohibits respondent from stating a rate of finance charge without stating the rate as an ''annual percentage rate'' or the abbreviation ''APR.''

Part I.C. of the proposed order prohibits respondent from failing to comply in any other respect with TILA or Regulation Z.

Part II of the proposed order contains a document retention requirement, the purpose of which is to ensure compliance with the proposed order. It requires that respondent maintain all records that will demonstrate compliance with the proposed order.

Part III of the proposed order requires respondent to distribute copies of the order to various principals, officers, directors, and managers, and all current and future employees, agents and representatives having responsibilities with respect to the subject matter of the order.

Part IV of the proposed order requires respondent to notify the Commission of any changes in its corporate structure

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

that might affect compliance with the order.

Part V of the proposed order requires respondent to file with the Commission one or more reports detailing compliance with the order.

Part VI of the proposed order is a ''sunset'' provision, dictating the conditions under which the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–4303 Filed 3–4–08: 8:45 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 072 3203]

Cash Pro d/b/a MakePaydayToday.com; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 31, 2008

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Cash Pro, File No. 072 3203,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form by following the instructions on the web-based form at *http://secure.commentworks.com/ftc-CashPro*. To ensure that the Commission considers an electronic comment, you must file it on that web-based form.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Cara Peterson or Quisaira Whitney, FTC Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 27, 2008), on the World Wide Web, at *http://www.ftc.gov/os/2008/02/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from CashPro d/b/a MakePaydayToday.com (''respondent'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondent engaged in practices that violate Section 144 of the Truth in Lending Act (''TILA''), 15 U.S.C. § 1664, and Section 226.24(c) of its implementing Regulation Z, 12 C.F.R. § 226.24(c). Respondent disseminated payday loan advertisements on the Internet stating the number of payments or period of repayment, or the amount of a finance charge, as terms for obtaining a payday loan. These advertisements failed, however, to disclose the ''annual percentage rate'' or ''APR'' for these loans as required by TILA and its implementing Regulation Z.

TILA and Regulation Z require that advertisers, including payday loan advertisers, disclose APRs on their loans to assist consumers in comparison shopping. The respondent's failure to disclose the APR for its advertised payday loans undermined consumers' ability to compare these loans to those offered by other payday lenders. The respondent's failure to disclose the APR for its advertised payday loans also frustrated consumers' ability to compare these loans to alternative forms of credit. Through its law enforcement actions the Commission intends to promote compliance with the APR disclosure requirements of TILA and Regulation Z, thereby promoting comparison shopping relating to payday loans.

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

The proposed consent order contains provisions designed to prevent respondent from failing to make disclosures required by TILA and Regulation Z in the future.

Part I.A. of the proposed order prohibits respondent, in connection with any advertisement of consumer credit, from stating the amount or percentage of any down payment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the terms required by TILA and Regulation Z, including the amount or percentage of the down payment, the terms of repayment, and the annual percentage rate, using that term or the abbreviation ''APR.''

Part I.B. of the proposed order prohibits respondent from stating a rate of finance charge without stating the rate as an ''annual percentage rate'' or the abbreviation ''APR.''

Part I.C. of the proposed order prohibits respondent from failing to comply in any other respect with TILA or Regulation Z.

Part II of the proposed order contains a document retention requirement, the purpose of which is to ensure compliance with the proposed order. It requires that respondent maintain all records that will demonstrate compliance with the proposed order.

Part III of the proposed order requires respondent to distribute copies of the order to various principals, officers, directors, and managers, and all current and future employees, agents and representatives having responsibilities with respect to the subject matter of the order.

Part IV of the proposed order requires respondent to notify the Commission of any changes in its corporate structure that might affect compliance with the order.

Part V of the proposed order requires respondent to file with the Commission one or more reports detailing compliance with the order.

Part VI of the proposed order is a ''sunset'' provision, dictating the conditions under which the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–4302 Filed 3–4–08: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

State Median Income Estimate for a Four-Person Family: Notice of the Federal Fiscal Year (FFY) 2009 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) (CFDA Number 93.568) Administered by the U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Administration for Children and Families, Office of Community Services, Division of Energy Assistance, HHS.

ACTION: Notice of State median income estimates for FFY 2009.

SUMMARY: This notice announces the estimated median income for four-person families in each State and the District of Columbia for FFY 2009 (October 1, 2008 to September 30, 2009). LIHEAP grantees may adopt the State median income estimates beginning with the date of publication in the **Federal Register** or at a later date as discussed below. This enables LIHEAP grantees to choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2008, or the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using State median income estimates must adjust their income eligibility criteria to be in accord with the FFY 2009 State median income estimates.

This listing of estimated State median incomes provides one of the maximum income criteria that LIHEAP grantees may use in determining a household's income eligibility for LIHEAP.

DATES: *Effective Date:* The estimates become effective at any time between the date of this publication and October 1, 2008, or the beginning of a LIHEAP grantee's fiscal year, whichever is later.

FOR FURTHER INFORMATION CONTACT: Peter Edelman, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401–5292, *E–Mail: peter.edelman@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(11) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law (Pub. L.) 97–35, as amended, HHS announces the estimated median income of a four-person family for each State, the District of Columbia, and the United States for FFY 2009 (October 1, 2008, through September 30, 2009).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each State, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP was last authorized by the Energy Policy Act of 2005, PL 109–58, enacted on August 8, 2005. This authorization expired on September 30, 2007. Reauthorization of LIHEAP is pending.

Estimates of the median income for a four-person family for each State and the District of Columbia for FFY 2009 have been produced by the U.S. Census Bureau, U.S. Department of Commerce. In developing these estimates, the U.S. Census Bureau used the most recently available income data, which was data from the 2006 American Community Survey (ACS). For additional information about the ACS State median income estimates, see *http://www.census.gov/hhes/www/income/medincsizeandstate.html* or contact the U.S. Census Bureau's Housing and Household Economic Statistics Division at (301) 763–3243. For additional information about the ACS in general, see *http://www.census.gov/acs/www/.*

The State median income estimates, like those that derive from any survey, are subject to two types of errors: (1) Nonsampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently direct the data into a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample. For additional information about the accuracy of the ACS State median income estimates, see *http://www.census.gov/acs/www/Downloads/ACS/accuracy2006.pdf.*

A State-by-State listing of median income and 60 percent of median income for a four-person family for FFY 2009 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45

CFR 96.85(b), published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

Dated: February 11, 2008.

Josephine B. Robinson,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR A FOUR-PERSON FAMILY, BY STATE, FEDERAL FISCAL YEAR

[(FFY) 2009 [1]]

States	Estimated state median income for a four-person family[2]	60 percent of estimated State median income for a four-person family [3]
Alabama	$60,298	$36,179
Alaska	71,781	43,069
Arizona	65,050	39,030
Arkansas	52,185	31,311
California	74,801	44,881
Colorado	75,775	45,465
Connecticut	93,821	56,293
Delaware	78,321	46,993
District of Columbia	71,571	42,943
Florida	65,024	39,014
Georgia	66,711	40,027
Hawaii	84,472	50,683
Idaho	58,066	34,840
Illinois	75,484	45,290
Indiana	67,787	40,672
Iowa	67,792	40,675
Kansas	67,897	40,738
Kentucky	60,202	36,121
Louisiana	60,161	36,097
Maine	63,501	38,101
Maryland	94,017	56,410
Massachusetts	89,347	53,608
Michigan	72,591	43,555
Minnesota	81,477	48,886
Mississippi	52,992	31,795
Missouri	63,274	37,964
Montana	60,576	36,346
Nebraska	68,917	41,350
Nevada	66,095	39,657
New Hampshire	87,396	52,438
New Jersey	94,441	56,665
New Mexico	52,034	31,220
New York	75,513	45,308
North Carolina	61,420	36,852
North Dakota	67,560	40,536
Ohio	68,579	41,147
Oklahoma	55,031	33,019
Oregon	64,832	38,899
Pennsylvania	74,072	44,443
Rhode Island	78,189	46,913
South Carolina	59,663	35,798
South Dakota	63,508	38,105
Tennessee	60,143	36,086
Texas	59,808	35,885
Utah	63,586	38,152
Vermont	67,884	40,730
Virginia	78,413	47,048
Washington	75,140	45,084
West Virginia	55,920	33,552
Wisconsin	72,495	43,497
Wyoming	71,559	42,935

Note: FFY 2009 covers the period of October 1, 2008 through September 30, 2009. The estimated median income for a four-person family living in the United States is $70,354 for FFY 2009. The estimates become effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 2008, or the beginning of a LIHEAP grantee's fiscal year, whichever is later.

[1] Prepared by the U.S. Census Bureau from the 2006 American Community Survey (ACS). The State median income estimates, like those that derive from any survey, are subject to two types of errors: (1) Nonsampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently direct the data into a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample.

[2] In accordance with 45 CFR 96.85, each State's estimated median income for a four-person family is multiplied by the following percentages to adjust for family size for LIHEAP: 52 percent for one person, 68 percent for two persons, 84 percent for three persons, 100 percent for four persons, 116 percent for five persons, and 132 percent for six persons. For each additional family member above six persons, add 3 percentage points to the percentage for a six-person family (132 percent), and multiply the new percentage by the State's estimated median income for a four-person family.

[3] These figures were calculated by the Division of Energy Assistance (DEA). DEA calculated these figures by multiplying the estimated State median income for a four-person family for each State by 60 percent.

[FR Doc. E8–4190 Filed 3–4–08; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0144]

Agency Information Collection Activities; Proposed Collection; Comment Request; Certification to Accompany Drug, Biological Product, and Device Applications or Submissions (Form FDA 3674)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the certification to accompany human drug, biological product, and device applications or submissions (Form FDA 3674).

DATES: Submit written or electronic comments on the collection of information by May 5, 2008.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Certification to Accompany Drug, Biological Product, and Device Applications or Submissions (Form FDA 3674)—(OMB Control Number 0910–0616)—Extension

The information required under section 402(j)(5)(B) of the Public Health Service Act (PHS Act) (42 U.S.C. 282(j)(5)(B)) will be submitted in the form of a certification with applications and submissions currently submitted to FDA under part 312 (21 CFR part 312) and 21 CFR part 314 (human drugs) and approved under OMB control numbers 0910–0014 (expires May 31, 2009) and 0910–0001 (expires May 31, 2008), respectively; submitted to FDA under part 312 and 21 CFR part 601 (biological products) and approved under OMB control numbers 0910–0014 and 0910–0338 (expires June 30, 2010); and submitted to FDA under 21 CFR parts 807 and 814 (devices) and approved under OMB control numbers 0910–0120 (expires August 31, 2010) and 0910–0231 (expires November 30, 2010), respectively.

Title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Public Law 110–85) amended the PHS Act by adding section 402(j) (42 U.S.C. 282(j)). The new provisions require additional information to be submitted to the clinical trials data bank (*ClinicalTrials.gov*)[1] previously established by the National Institutes of Health/National Library of Medicine, including expanded information on clinical trials and information on the results of clinical trials. The provisions include new responsibilities for FDA as well as several amendments to the Federal Food, Drug, and Cosmetic Act (FD&C Act).

One new provision, section 402(j)(5)(B) of the PHS Act, requires that a certification accompany human drug, biological, and device product submissions made to FDA. Specifically, at the time of submission of an application under sections 505, 515, or 520(m) of the FD&C Act (21 U.S.C. 355, 360e, or 360j(m)), or under section 351 of the PHS Act (42 U.S.C. 262), or submission of a report under section 510(k) of the FD&C Act (21 U.S.C. 360(k)), such application or submission must be accompanied by a certification that all applicable requirements of section 402(j) of the PHS Act have been met. Where available, such certification must include the appropriate National Clinical Trial (NCT) numbers.

The proposed collection of information is necessary to satisfy the previously mentioned statutory requirement.

The importance of obtaining these data relates to adherence to the legal requirements for submissions to the clinical trials registry and results data bank and ensuring that individuals and

[1] (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

organizations submitting applications or reports to FDA under the listed provisions of the FD&C Act or the PHS Act adhere to the appropriate legal and regulatory requirements for certifying to having complied with those requirements. The failure to submit the certification required by section 402(j)(5)(B) of the PHS Act, and the knowing submission of a false certification are both prohibited acts under section 301 of the FD&C Act (21 U.S.C. 331). Violations are subject to civil money penalties.

Investigational New Drug Applications

FDA's Center for Drug Evaluation and Research (CDER) received 1,837 investigational new drug applications (INDs) and 24,581 new IND amendments in fiscal year (FY) 2004. CDER anticipates that IND and amendment submission rates will remain at or near this level in the near future.

FDA's Center for Biologics Evaluation and Research (CBER) received 227 new INDs and 6,689 new IND amendments in FY 2004. CBER anticipates that IND and amendment submission rates will remain at or near this level in the near future.

The estimated total number of submissions (new INDs and new submissions) subject to mandatory certification requirements under section 402(j)(5)(B) of the PHS Act is 26,418 for CDER plus 6,916 for CBER, or 33,334 submissions per year. The minutes per response is the estimated number of minutes that a respondent would spend preparing the information to be submitted to FDA under section 402(j)(5)(B) of the PHS Act, including the time it takes to type the necessary information.

Based on its experience reviewing INDs and consideration of the previously mentioned information, FDA estimated that approximately 15.0 minutes on average would be needed per response for certifications which accompany IND applications and submissions. It is assumed that most submissions to investigational applications will reference only a few protocols for which the sponsor/applicant/submitter has obtained an NCT number from *ClinicalTrials.gov* prior to making the submission to FDA. It is also assumed that the sponsor/applicant/submitter has electronic capabilities allowing them to retrieve the information necessary to complete the form in an efficient manner.

Marketing Applications/Submissions

CDER and CBER received 214 new drug applications (NDA)/biologics license applications (BLA)/resubmissions and 8,535 NDA/BLA amendments in FY 2004. CDER and CBER received 259 efficacy supplements/resubmissions to previously approved NDAs/BLAs; 2,500 manufacturing submissions; and 1,273 labeling submissions in FY 2004. CDER and CBER anticipate that new drug/biologic and efficacy supplement submission rates will remain at or near this level in the near future.

FDA's Center for Devices and Radiological Health (CDRH) received 51 new applications for premarket approvals (PMA); 3,635 premarket notification submissions under section 510(k) of the FD&C Act; and 9 applications for humanitarian device exemptions (HDE), for a total of 3,695 new applications/submissions in FY 2004. CDRH received 2,267 PMA/510(k)/HDE amendments in FY 2004. CDRH received 2,705 PMA/510(k)/HDE supplements in FY 2004. CDRH anticipates that application, amendment, and supplement rates will remain at or near this level in the near future.

The estimated total number of new submissions (new marketing applications/submissions, amendments, and supplements) subject to the mandatory certification requirements under section 402(j)(5)(B) of the PHS Act is 12,781 for CDER and CBER plus 8,667 for CDRH, or 21,448 new submissions per year. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted to FDA under section 402(j)(5)(B) of the PHS Act, including the time it takes to type the necessary information and compile a list of relevant NCT numbers.

Based on its experience reviewing NDAs, BLAs, PMAs, HDEs, and 510(k)s, and consideration of the previously mentioned information, FDA estimated that approximately 45.0 minutes on average would be needed per response for certifications which accompany NDA, BLA, PMA, HDE, and 510(k) applications and submissions. It is assumed that the sponsor/applicant/submitter has electronic capabilities allowing them to retrieve the information necessary to complete the form in an efficient manner.

Table 1 of this document provides an estimate of the annual reporting burden for the submission of information to satisfy the requirements of section 402(j)(5)(B) of the PHS Act.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	Investigational Applications	Marketing Applications	Hours per Response	Total Hours
CDER (new application)	1,837	----	.25	459
CBER (new application)	227	----	.25	57
CDER (amendment)	24,581	----	.25	6,145
CBER (amendment)	6,689	----	.25	1,672
CDER/CBER (new application/resubmission)	----	214	.75	161
CDRH (new application)	----	3,695	.75	2,771
CDER/CBER (amendment)	----	8,535	.75	6,401
CDRH (amendment)	----	2,267	.75	1,700
CDER/CBER (efficacy supplement/resubmission)	----	259	.75	194

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

	Investigational Applications	Marketing Applications	Hours per Response	Total Hours
CDER/CBER (manufacturing supplement)	----	2,500	.75	1,875
CDER/CBER (labeling supplement)	----	1,273	.75	955
CDRH (supplement)	----	2,705	.75	2,029
Total				24,419

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We believe the estimate of 24,419 hours per year accurately reflects the burden. We recognize that individuals or entities less familiar with FDA forms and the clinical trials data bank (*ClinicalTrials.gov*) may require greater than 15 and 45 minutes (depending on the type of application/submission) per response.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

Dated: February 28, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–4158 Filed 3–4–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of a meeting of the Oncologic Drugs Advisory Committee. This meeting was announced in the **Federal Register** of January 25, 2008 (73 FR 4580). The amendment is being made to reflect a change in the *Date and Time*, *Agenda*, and *Procedure* portions of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Nicole Vesely, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, Rm. 1093), Rockville, MD 20857, 301–827–6793, FAX: 301–827–6776, e-mail: *nicole.vesely@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512542. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 2008, FDA announced that a meeting of the Oncologic Drugs Advisory Committee would be held on March 12 and 13, 2008.

On page 4580, in the third column, the *Date and Time* portion of the meeting is amended to read as follows:

Date and Time: The meeting will be held on March 12 and 13, 2008, from 8 a.m. to 4 p.m.

On page 4580, beginning in the third column, the *Agenda* portion of the meeting is amended to read as follows:

Agenda: On March 12, 2008, the committee will discuss biologic license application (BLA) 125268, proposed trade name NPLATE (romiplostim), Amgen, Inc., proposed indication for the treatment of thrombocytopenia in adults with chronic immune (idiopathic) thrombocytopenia purpura (ITP) who are nonsplenectomized and have had an inadequate response or are intolerant to corticosteroids and/or immunoglobulins; or patients who are splenectomized and have an inadequate response to splenectomy. On March 13, 2008, the committee will discuss the cumulative data, including recent study results, on the risks of erythropoeisis-stimulating agents when administered to patients with cancer. Agents to be discussed include ARANESP (darbepoetin alfa), EPOGEN (epoetin alfa), PROCRIT (epoetin alfa), Amgen, Inc.) and MIRCERA (methoxy polyethylene glycol-epoetin beta, Hoffman-La Roche, Inc.). This is a followup to the May 10, 2007, Oncologic Drugs Advisory Committee Meeting.

On page 4581, beginning in the first column, the *Procedure* portion of the meeting is amended to read as follows:

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 27, 2008. Oral presentations from the public will be scheduled between approximately 1 p.m. to 2 p.m. on March 12, 2008, and between approximately 1 p.m. to 2 p.m. on March 13, 2008. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 19, 2008. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 20, 2008.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Nicole Vesely at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 26, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–4157 Filed 3–4–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Pediatric Advisory Committee. This meeting was originally announced in the **Federal Register** of January 25, 2008 (73 FR 4581). The amendment is being made to reflect a change in the *Agenda* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Carlos Peña, Office of the Commissioner (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340, e-mail: *carlos.Peña@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732310001. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 2008, FDA announced that a meeting of the Pediatric Advisory Committee would be held on March 25, 2008. On page 4581, in the third column, the *Agenda* portion of document is changed to read as follows:

Agenda: On March 25, 2008, the Pediatric Advisory Committee will hear and discuss reports by the agency, as mandated in section 17 of the Best Pharmaceuticals for Children Act, on adverse event reports for TOPROL XL (metoprolol), BREVIBLOC (esmolol HCl), LOTENSIN (benazepril), COREG (carvedilol), COLAZAL (balsalazide), ELOXATIN (oxaliplatin), CELEBREX (celecoxib), and SUPRANE (desflurane). The Pediatric Advisory Committee will also hear an update on TRILEPTAL (oxcarbazepine) and the FDA Amendments Act of 2007.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2008 and scroll down to the appropriate advisory committee link.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: February 26, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–4156 Filed 3–4–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The National Sample Survey of Registered Nurses 2008 (OMB No. 0915–0276)—Reinstatement With Change

The National Sample Survey of Registered Nurses (NSSRN) is carried out to assist in fulfilling the Congressional mandate of Section 806(f) of the Public Health Service Act (42 U.S.C. 296e) which requires that discipline-specific workforce information and analytical activities are carried out as part of the advanced nursing education, workforce diversity, and basic nursing education and practice programs.

Government agencies, legislative bodies and health professionals used data from previous national sample surveys of registered nurses to inform workforce policies. The information from this survey will continue to serve policy makers, and other consumers. The data collected in this survey will provide information on employment status of registered nurses (RNs), the setting in which they are employed and the proportion of RNs who are employed either full-time and part-time in nursing. The data will also indicate the number of RNs who are employed in jobs unrelated to nursing.

The proposed survey design for the 2008 NSSRN updates that of the previous eight surveys. A probability sample is selected from a sampling frame compiled from files provided by the State Boards of Nursing in the 50 States and the District of Columbia. These files constitute a multiple sampling frame of all RNs licensed in the 50 States and the District of Columbia. Sampling rates are set for each State based on considerations of statistical precision of the estimates and the costs involved in obtaining reliable national and State-level estimates.

Each sampled nurse will be asked to complete a self-administered questionnaire, which includes items on educational background, duties, employment status and setting, geographic mobility, and income. An electronic version was offered in the 2004 survey and will be again considered as a mode for response.

Estimated burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Nursing Survey	39,984	1	39,984	.33	13,195

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: February 28, 2008.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E8–4269 Filed 3–4–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Reimbursement of Travel and Subsistence Expenses Toward Living Organ Donation Eligibility Guidelines

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Request for Comments on Proposed Changes to the Reimbursement of Travel and Subsistence Expenses Program Eligibility Criteria.

SUMMARY: The Health Resources and Services Administration (HRSA) published the final eligibility guidelines for the Reimbursement of Travel and Subsistence Expense Program in the **Federal Register** on October 5, 2007 (72 FR 57049). The purpose of this notice was to inform the public of the eligibility requirements for participation in the Reimbursement of Travel and Subsistence Expenses toward Living Organ Donation Program. HRSA is requesting public comments concerning recommended change to a specific section of the reimbursement program eligibility guidelines.

DATES: Written comments must be submitted to the office in the address section below by mail or e-mail on or before April 4, 2008.

ADDRESSES: Please send all written comments to James F. Burdick, M.D., Director, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, Room 12C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–7577; fax (301) 594–6095; or e-mail: *jburdick@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: James F. Burdick, M.D., Director, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, Parklawn Building, Room 12C–06, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–7577; fax (301) 594–6095; or e-mail: *jburdick@hrsa.gov*.

SUPPLEMENTARY INFORMATION: In its final program eligibility guidelines, HRSA explained that ''[t]he Program will pay for a total of up to five trips; three for the donor and two for accompanying persons. The accompanying persons need not be the same each trip.'' (72 FR 57052). HRSA proposes amending this paragraph to read: ''[t]he Program will pay for a total of up to five trips; three for the donor and two for accompanying persons. However, in cases in which the transplant center requests the donor to return to the transplant center for additional visits as a result of donor complications or other health related issues, NLDAC may provide reimbursement for the additional visit(s) for the donor and an accompanying person. The accompanying persons need not be the same in each trip.'' The purpose of this proposed change is to accommodate individuals who experience donor complications or other health related issues relating to donation.

HRSA is requesting comments on this specific section.

Dated: February 26, 2008.

Elizabeth M. Duke,

Administrator.

[FR Doc. E8–4185 Filed 3–4–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

PSM Peptides as Vaccine Targets Against Methicillin-Resistant

Staphylococcus aureus

Description of Technology: Available for licensing and commercial development are compositions and methods for the treatment and inhibition of Methicillin-resistant *Staphylococcus aureus* (MRSA), a dangerous human pathogen. The invention concerns immunogenic peptides that can be used to induce protective immunity against MRSA, including phenol-soluble modulin (PSM) peptides.

In addition to the MRSA infections that occur in immunocompromised patients in hospitals, new MRSA strains have recently emerged that can cause severe infections (such as necrotizing fasciitis) or death in otherwise healthy adults. These strains are increasingly involved in community-associated (CA)–MRSA infections, and can be contracted outside of the health care settings. The incidence of CA–MRSA infections is increasing and the majority of infections in patients reporting to emergency departments in the U.S. is now due to CA–MRSA.

The invention describes a class of secreted staphylococcal peptides with an extraordinary ability to recruit, activate, and subsequently lyse human neutrophils, thus eliminating the main cellular defense against *S. aureus* infection. The peptides are encoded by the PSM gene cluster and include PSMα1, PSMα2, PSMα3, and PSMα4, all of which activate and subsequently lyse neutrophils. These peptides are produced at especially high levels in CA–MRSA and to a large extent determine their aggressive behavior and ability to cause disease in animal models of infection. Thus, the peptides represent a set of virulence factors of *S. aureus* that account for the enhanced virulence of CA–MRSA. The identification of these peptides enables the production of vaccines and other preventative and/or therapeutic agents for use in subjects infected with MRSA.

Applications: Development of new classes of antibiotics and vaccines against Methicillin-resistant *Staphylococcus aureus* infections.

Inventors: Michael Otto and Rong Wang (NIAID).

Publication: R Wang et al. Identification of novel cytolytic peptides as key virulence determinants for community-associated MRSA. Nat Med. 2007. Dec;13(12):1510–1514.

Patent Status: U.S. Provisional Application No. 60/933,573 filed 06 Jun 2007 (HHS Reference No. E–239–2007/0–US–01); U.S. Provisional Application

No. 60/983,141 filed 26 Oct 2007 (HHS Reference No. E–239–2007/1–US–01).

Development Status: Early stage.

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Cristina Thalhammer-Reyero, PhD., M.B.A.; 301–435–4507; *thalhamc@mail.nih.gov*.

Collaborative Research Opportunity: The NIAID Laboratory of Human Bacterial Pathogenesis is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact William Ronnenberg at 301–451–3522 or *wronnenberg@mail.nih.gov* for more information.

Active MRI Compatible and Visible iMRI Catheter

Description of Technology: MRI is a promising imaging modality that provides superior soft tissue contrast and multi planar real-time imaging without harmful ionizing radiation for therapeutic procedures. Interventional magnetic resonance imaging (iMRI) has gained important popularity in many fields such as interventional cardiology and radiology, owing to the development of minimally invasive techniques and visible catheters under MRI for conducting MRI-guided procedures and therapies. This invention relates to a novel MRI compatible and active visible catheter for conducting interventional and intraoperative procedures under the guidance of MRI. The catheter features a non conductive transmission line and the use of ultrasonic transducers that transform RF signals to ultrasonic signals for transmitting RF signal to the MRI scanner. The unique design of this catheter overcomes the concern of patient/sample heating (due to the coupling between RF transmission energy and long conductors within catheter) associated with the design of conventional active MRI catheters.

Inventor: Ozgur Kocaturk (NHLBI).

Patent Status: U.S. Provisional Application No. 60/716,503 filed 14 Sep 2005 (HHS Reference No. E–298–2005/0–US–01); PCT Application No. PCT/US2006/035636 filed 13 Sep 2006, which published as WO 2007/033240 on 22 Mar 2007 (HHS Reference No. E–298–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Michael Shmilovich, Esq.; 301/435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute, Cardiac Catheterization Lab is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the alternative Active MRI compatible and visible catheters using ultrasonic technology. Please contact Peg Koelble at *koelblep@nhlbi.nih.gov* for more information.

Immunoglobulins With Potent and Broad Antiviral (HIV) Activity Based on scFv Joined by Flexible Linker to Fc

Description of Technology: This invention describes methods of inhibiting viral infection (e.g., HIV–1 infection). The method comprises administering a fusion protein comprising a small size, single chain Fv (scFv) antibody binding domain joined to an Fc region by a long flexible linker. In particular, scFv m6 or m9, the single chain variable fragments that were previously identified from a phage display library for binding to $gp140_{89.6}$, $gp120_{JRFL}$, $gp140_{IIIB}$, and their complex with two-domain soluble CD4 is joined to Fc by a long flexible linker to provide a new agent for the inhibition of HIV infection or immunotherapy of HIV-infected individuals. The Fc region provides stability, long half-life, and biological effector functions. The scFv-Fc fragment provides antigen recognition and neutralizing activity. The small size of the scFv-Fc fusion molecule provides easy access to conserved viral epitopes exposed before or during viral entry. In addition, these fusion molecules exhibit neutralization activity that is higher than that of whole IgGs. Thus, this invention may offer a novel approach to treat and prevent HIV–1 infection and/or AIDS.

Inventors: Dimiter Dimitrov (NCI) and Mei-Yun Zhang (NCI/SAIC).

Patent Status: U.S. Patent Application No. 10/573,962 filed 29 Mar 2006, claiming priority to 29 Sep 2003 (HHS Reference No. E–316–2003/0–US–03).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Sally Hu; 301/435–5606; *hus@mail.nih.gov*.

Modulators of Nuclear Hormone Receptor Activity: Novel Compounds, Diverse Applications for Infectious Diseases, Including Anthrax (*B. anthracis*)

Description of Technology: Nuclear hormones such as glucocorticoids dampen inflammatory responses, and thus provide protection to mammals against inflammatory disease and septic shock. The Anthrax lethal factor represses nuclear hormone receptor activity, and thus may contribute to the infectious agent causing even more damage to the host. This observation can be exploited to find new means of studying and interfering with the normal function of nuclear hormone receptors. Scientists at NIH have shown that under the appropriate conditions, these molecules can be used to modulate the activity of various nuclear hormone receptors. Identifying useful agents that modify these important receptors can provide relief in several human disorders such as inflammation, autoimmune disorders, arthritis, malignancies, shock and hypertension.

Applications: This invention provides novel agents that can interfere with the action of nuclear hormone receptors. It is well known that malfunction or overdrive of these receptors can lead to a number of diseases such as enhanced inflammation; worse sequelae of infection including shock; diabetes; hypertension and steroid resistance. Hence a means of controlling or fine-tuning the activity of these receptors can be of great benefit. Current means of affecting steroid receptor activity are accompanied by undesirable side-effects. Since the conditions for which these treatments are sought tend to be chronic, there is a critical need for safer drugs that will have manageable side-effects.

Advantages: The observation that the lethal factor from Anthrax has a striking effect on the activity of nuclear hormone receptors opens up new routes to controlling their activity. The means of action of this repressor is sufficiently different from known modulators of hormone receptors (i.e., the classical antagonists). For instance, the repression of receptor activity is non-competitive, and does not affect hormone binding or DNA binding. Also, the efficacy of nuclear hormone receptor repression by Anthrax lethal factor is sufficiently high that the pharmacological effect of this molecule is seen at vanishingly small concentrations. Taken together, these attributes may satisfy some of the golden rules of drug development such as the uniqueness or novelty of the agent's structure, a low threshold for activity, high level of sophistication and knowledge in the field of enquiry, and the leeway to further refine the molecule by rational means.

Development Status: In vitro studies have been completed, and a limited number of animal studies have been carried out.

Inventors: Esther M. Sternberg (NIMH), Jeanette Webster (NIMH), Leonardo H. Tonelli (NIMH), Stephen H. Leppla (NIAID), Mahtab Moayeri (NIAID).

Patent Status: U.S. Patent Application No. 10/530,254 filed 04 Apr 2005,

claiming priority to 04 Oct 2002 (HHS Reference No. E–247–2002/1–US–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter Soukas; 301/435–4646; *soukasp@mail.nih.gov*.

Dated: February 27, 2008.

Bonny Harbinger,

Deputy Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–4187 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Adjuvant Therapy Using TIMP–2 Variants

Description of Technology: Angiogenesis inhibitors are drugs that are being used in cancer therapy to block the development of new blood vessels which could potentially cut off a tumor's supply of oxygen and nutrients. This in turn might stop the tumor from growing and spreading to other parts of the body.

Human protein tissue inhibitor of metalloproteinases-2 (TIMP–2) has been shown to inhibit angiogenesis *in vivo* independent of metalloproteinase inhibition. The inventors have demonstrated that TIMP–2, as well as TIMP–2 variants lacking metalloproteinase inhibitor activity can revert aggressive tumor cell phenotype to a more differentiated state. In addition, TIMP–2 and the TIMP–2 variants also sensitize tumor cells to the induction of apoptosis by cytotoxic drugs (doxorubicin), thereby enhancing their effectiveness. Novel methods of cancer therapy are disclosed using TIMP–2 or TIMP–2 variants that combine the known anti-angiogenic activity of TIMP–2, with direct tumor-differentiating and chemo-sensitizing activity of TIMP–2.

Applications:

TIMP–2 or TIMP–2 variants can be administered for the inhibition of tumor cell growth and promotion of tumor cell differentiation.

TIMP–2 or TIMP–2 variants can be administered to enhance the cytotoxic activity of a chemotherapeutic agent.

Adjuvant therapy has application in the treatment of wide variety of carcinomas or melanomas.

Advantages:

A novel cancer therapy that combines the known anti-angiogenic activity of TIMP–2, with a novel direct tumor-differentiating and chemo-sensitizing activity of TIMP–2.

Enhances cytotoxicity of conventional chemotherapeutic agents when combined with TIMP–2 or TIMP–2 variants.

Development Status: In vivo and *in vitro* experiments have been conducted. The technology continues to be developed.

Market:

600,000 deaths from cancer related diseases estimated in 2007.

The technology platform involving novel anti-angiogenic cancer therapy technology has a potential market of more than 2 billion U.S. dollars.

Inventors: William G. Stetler-Stevenson et al. (NCI).

Publication: DW Seo, H Li, L Guedez, PT Wingfield, T Diaz, R Salloum, BY Wei, WG Stetler-Stevenson. TIMP–2 mediated inhibition of angiogenesis: an MMP-independent mechanism. Cell. 2003 Jul 25;114(2):171–180. [*PubMed abs*]

Patent Status: U.S. Provisional Application No. 60/953,352 filed 01 Aug 2007 (HHS Reference No. E–297–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Surekha Vathyam; 301–435–4076; *vathyams@mail.nih.gov*.

Collaborative Research Opportunity: The NCI Laboratory of Extracellular Matrix Pathology, Cell and Cancer Biology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize novel cancer therapy methods using TIMP–2 variants. Please contact John D. Hewes, Ph.D., at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Mucin Genes as a Diagnosis Marker for Pulmonary Fibrosis

Description of Technology: Familial pulmonary fibrosis (FPF) is a rare type of interstitial lung disease for which there is currently no cure. FPF is part of a group of interstitial lung diseases called idiopathic interstitial pneumonias (IIP) that lead to hypoxic respiratory insufficiency. The current invention has identified genes that are associated with FPF, and a possible means of early detection and treatment. The invention discloses an association between FPF and mutations in the genes encoding the MUC2 and MUC5AC mucins that predispose a subject to IIP. The occurrence of single nucleotide polymorphisms (SNPs) in these mutant genes further enable a significant diagnostic association between these polymorphisms and both familial and sporadic forms of pulmonary fibrosis. This invention may also have diagnostic value for other IIPs including idiopathic pulmonary fibrosis (IPF); a disease that presents late in life and is lethal within 4–5 years of diagnosis.

This technology presents opportunities for early detection of subjects at high risk for the development of pulmonary fibrosis, and possibly other similar diseases such as asthma, chronic obstructive pulmonary disease (COPD) and obliterative bronchitis, which also involve fibrosis of the airways. It is also conceivable that mucin, and synthetic molecules that mimic it, may be used as therapeutic agents for the prevention and treatment of pulmonary fibrosis.

Applications: Diagnosis of diseases involving pulmonary fibrosis.

Inventors: David A. Schwartz (NIEHS), Lauranell H. Burch (NIEHS), *et al.*

Publication: MP Steele, MC Speer, JE Loyd, KK Brown, A Herron, SH Slifer, LH Burch, MM Wahidi, JA Phillips III, TA Sporn, HP McAdams, MI Schwarz, DA Schwartz. Clinical and Pathologic Features of Familial Interstitial Pneumonia. Am J Respir Crit Care Med. 2005 Nov 1;172(9): 1146–1152.

Patent Status: U.S. Provisional Application No. 60/992,079 filed 03 Dec 2007 (HHS Reference No. E–016–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jasbir (Jesse) S. Kindra, J.D., M.S.; 301–435–5170; *kindraj@mail.nih.gov*.

P53 and VGEF Regulate Tumor Growth of NO_2 Expressing Cancer Cells

Description of Technology: The increased expression of nitric oxide synthase 2 (NOS2), an inducible enzyme that produces nitric oxide (NO), has been found in a variety of human cancers. It also has been shown that NOS2-specific inhibitors can reduce the growth of experimental tumors in mice. These findings suggest a pathophysiological role for NO in the development and progression of cancer. However, the function of NO and NOS2 in carcinogenesis is uncertain. NO had been found to either inhibit or stimulate tumor growth, and high concentrations of NO also are known to induce cell death in many cell types including tumor cells. On the other hand, low NO concentrations found in human tissue can have an opposite effect and protect against programmed cell death, or apoptosis, from various stimuli. The role of NO and NOS2 in tumor progression, particularly with respect to p53, therefore need to be further defined.

This invention comprises methods of screening for modulators of NOS2 expression in p53 mutant cells, both *in vivo* and *in vitro*, as well as methods for predicting the chemotherapeutic benefit of administering NOS2-inhibitors to cancer patients. It has been demonstrated that NOS2-expressing cancer cells with wild-type p53 have reduced tumor growth in athymic nude mice whereas NOS2-expressing cancer cells with mutated p53 have accelerated tumor growth. Therefore, this invention has potential application for a number of cancers that overexpress NOS2 and have a high frequency of p53 mutations, including breast, brain, head, neck, lung and colon cancers.

Applications:

Method to treat cancer with NOS2 inhibitors.

Method to screen for NOS2 modulators.

Method to predict therapeutic benefits of NOS2 inhibitors in patients.

Market:

An estimated 1,444,920 new cancer diagnoses in the U.S. in 2007.

600,000 deaths caused by cancer in the U.S. in 2006.

Cancer is the second leading cause of death in United States.

It is estimated that market for cancer drugs would double to $50 billion a year in 2010 from $25 billion in 2006.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Stefan Ambs and Curt Harris (NCI).

Publications:

1. JE Goodman *et al.* Nitric oxide and p53 in cancer-prone chronic inflammation and oxyradical overload diseases. Environ Mol Mutagen. 2004;44(1):3–9.

2. LJ Hofseth *et al.* Nitric oxide in cancer and chemoprevention. Free Radic Biol Med. 2003Apr 15;34(8):955–968.

Patent Status:

U.S. Patent Application No. 11/195,006 filed 01 Aug 2005 (HHS Reference No. E–223–1998/0–US–04).

U.S. Patent Application No. 09/830,977 filed 02 May 2001 (HHS Reference No. E–223–1998/0–US–03).

PCT Patent Application No. PCT/US1999/27410 filed 17 Nov 1998 (HHS Reference No. E–223–1998/0–PCT–02).

U.S. Provisional Patent Application No. 60/109,563 filed 23 Nov 1998 (HHS Reference No. E–223–1998/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Dated: February 26, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–4200 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Musculoskeletal Rehabilitation Sciences.

Date: March 18, 2008.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John P. Holden, PhD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–496–8551, *holdenjo@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infectious Diseases Microbiology Fellowships.

Date: March 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Alexander D. Politis, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, 301–435–1150, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Drug and Therapeutics Development SBIR/STTR.

Date: March 20–21, 2008.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Steven B. Scholnick, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *scholnis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Skeletal Muscle and Exercise Physiology.

Date: March 20, 2008.

Time: 3:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John P. Holden, PhD, Center for Scientic Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–496–8551, *holdenjo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Developmental Pharmacology.

Date: March 26, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Janet M. Larkin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–435–1026, *larkinja@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral and Social HIV/AIDS Review of SBIR Applications.

Date: March 28, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mark P. Rubert, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Development of Assays for High Throughput Screening (HTS) in the Molecular Libraries Probe Production Centers Network (MLPCN).

Date: April 3, 2008.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW, Washington, DC 20007.

Contact Person: George W. Chacko, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301–435–1245, *chackoge@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–936 Filed 3–04–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Atherosclerotic and Lipid Metabolism.

Date: March 11, 2008.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.393–93.396, 93.337, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–937 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Career Development Award Review Meeting.

Date: April 7, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 27, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–938 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases: Licensing Opportunity and Cooperative Research and Development Agreement (''CRADA'') Opportunity; Live Attenuated Vaccine To Prevent Disease Caused by West Nile Virus

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases (NIAID) of the NIH is seeking licensees and/or CRADA partners to further develop, evaluate, and commercialize modified West Nile virus (WNV) chimeras as a live attenuated vaccine against infections of WNV in humans. NIAID is also seeking licensees to commercialize modified WNV chimeras as live attenuated veterinary vaccines against infections of WNV in animals.

DATES: Respondents interested in licensing the invention will be required to submit an ''Application for License to Public Health Service Inventions'' on or

before June 3, 2008 for priority consideration.

Interested CRADA collaborators must submit a confidential proposal summary to the NIAID (attention Percy S. Pan at the address mentioned below) on or before June 3, 2008 for consideration. Guidelines for preparing full CRADA proposals will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest. CRADA and PHS License Applications submitted thereafter may be considered if a suitable CRADA collaborator or Licensee(s) has not been selected.

ADDRESSES: Questions about licensing opportunities should be addressed to Peter Soukas, J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804, Telephone: (301) 435–4646 ; Facsimile: (301) 402–0220; E-mail: *soukasp@mail.nih.gov*. Information about Patent Applications and pertinent information not yet publicly described can be obtained under the terms of a Confidential Disclosure Agreement. Respondents interested in licensing the invention will be required to submit an ''Application for License to Public Health Service Inventions.''

Depending upon the mutual interests of the Licensee(s) and the NIAID, a CRADA to collaborate to develop WNV vaccines in humans may also be negotiated. Proposals and questions about this CRADA opportunity should be addressed to Percy S. Pan, Technology Development Associate, Office of Technology Development, NIAID, 6610 Rockledge Drive, Room 4071, Bethesda, MD 20892–6606, Telephone: (301) 451–3523; E-mail: *panp@niaid.nih.gov*. Respondents interested in submitting a CRADA Proposal should be aware that it may be necessary to secure a license to the above-mentioned patent rights in order to commercialize products arising from a CRADA.

SUPPLEMENTARY INFORMATION: WNV has recently emerged in the U.S. and is considered a significant emerging disease that has embedded itself over a considerable region of the U.S. WNV infections have been recorded in humans as well as in different animals. To date, WNV has killed 294 people in the U.S. and caused severe disease in more than 4222 others. This project is part of NIAID's comprehensive emerging infectious disease program, which supports research on bacterial, viral, and other types of disease-causing microbes.

The methods and compositions of this invention provide a means for prevention of WNV infection by immunization with attenuated, immunogenic viral vaccines against WNV. The invention involves a chimeric virus form consisting of parts of WNV and Dengue virus. Construction of the hybrids and their properties are described in detail in PNAS, Pletnev AG et al., 2002; 99(5):3036–3041.

The WNV chimeric vaccine does not target the central nervous system, which would be the case in an infection with wild type WNV. The vaccine stimulates strong anti-WNV immune responses, even following a single dose of the vaccine. When injected into mice, the vaccine protected all of the immunized animals from subsequent exposure to the New York WNV strain. The vaccine was also effective in primates. Researchers intend to begin human trials in late 2003.

The WNV vaccine may be used to protect the human population, particularly the elderly people, and domestic animals from WNV infection in the affected regions of the U.S. as well as worldwide.

The invention claimed in HHS Reference No. E–357–2001/1–US–02, ''Construction of West Nile Virus and Dengue Virus Chimeras for Use in a Live Virus Vaccine to Prevent Disease Caused by West Nile Virus'' AG Pletnev *et al.*), U.S. Patent Application No. 10/871,775, filed June 18, 2004, is available for exclusive or non-exclusive licensing for developing a vaccine against WNV for humans or veterinary use in accordance with 35 U.S.C. 207 and 37 CFR Part 404. NIAID is also interested in further development of the technology under one or more CRADAs in the human applications described below.

Under the CRADA the production of WNV vaccines for humans will be optimized and the vaccine evaluated in a series of clinical studies in humans as well as initial safety testing in humans. Positive outcomes of these studies will indicate continued clinical development aimed at supporting regulatory approval of a product to be labeled for use in humans. The Public Health Service (PHS) has filed patent applications both in the U.S. and internationally related to this technology. Notice of the availability of the patent application for licensing was first published in the **Federal Register** on May 2, 2002 (67 FR 22093).

NIAID's principal investigator has extensive experience with live attenuated vaccines, their production and testing, and clinical trials. The Collaborator in this endeavor is expected to assist NIAID in evaluating its current system for producing the WNV chimeras claimed in the patent applications and to develop and optimize an alternative production method, if necessary, to manufacture sufficient quantities of the vaccine for clinical testing in humans and initial safety studies in humans. The Collaborator must have experience in the manufacture of live attenuated vaccines according to applicable FDA guidelines and Points to Consider documents to include Good Manufacturing Procedures (GMP). In addition, it is expected that the Collaborator would provide funds to supplement the LID's research budget for the project and to support the initial human testing.

The capability statement should include detailed descriptions of: (1) Collaborator's expertise in the production of live attenuated vaccines, (2) Collaborator's ability to manufacture sufficient quantities of the vaccine according to FDA guidelines and Points to Consider documents, (3) the technical expertise of the Collaborator's principal investigator and laboratory group in preclinical safety testing (e.g., expertise in *in vitro* and *in vivo* toxicity and pharmacology studies) and initial human safety studies, and (4) Collaborator's ability to provide adequate funding to support initial human safety studies required for marketing approval.

Dated: February 25, 2008.

Michael Mowatt,

Director, Office of Technology Development, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

Dated: February 26, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–4193 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of Human Therapeutics for the Treatment of Cancer

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. Patent 5,167,956 entitled ''Immunotoxin with in-vivo T–Cell suppressant activity and Methods of Use'' [HHS Ref. E–012–1991/0–US–01], U.S. Patent Application 60/037,196 entitled ''Novel Vectors and Expression Methods for Producing Mutant Proteins'' [HHS Ref. E–043–1997/0–US–01], U.S. Patent Application 60/039,987 entitled ''Novel Immunotoxins and Methods of Inducing Immune Tolerance'' [HHS Ref. E–044–1997/0–US–01], U.S. Patent Application 09/064,413 entitled ''Use of Immunotoxins to Induce Immune Tolerance to Pancreatic Islet Transplantation'' [HHS Ref. E–059–1998/0–US–01], U.S. Patent Application 09/291,712 entitled ''Methods Related to the Combined Use of Immunotoxins and Agents that Inhibit Dendritic Cell Maturation'' [HHS Ref. E–168–1999/0–US–01], and all continuing applications and foreign counterparts, to CK Life Sciences International, Inc., which has offices in Hong Kong. The patent rights in these inventions have been assigned to and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to: The production and use of the immunotoxins covered by the licensed patent rights for the treatment of T-cell mediated diseases, including but not limited to T-cell lymphoma and autoimmune diseases.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before May 5, 2008 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: David A. Lambertson, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4632; Facsimile: (301) 402–0220; E-mail: *lambertsond@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The invention concerns immunotoxins and methods of using the immunotoxins for the treatment of autoimmune diseases and T cell malignancies. A specific immunotoxin covered by this technology is A-dmDT390-bisFV (UCHT1). The immunotoxins are targeted via an antibody that is specific to T cells, allowing the specific ablation of both malignant T cells and resting T cells. The transient ablation of resting T cells can ''reset'' the immune system by accentuating tolerating responses to autoimmune diseases like Lupus. Additionally, the immunotoxins can be used to treat T cell related cancers such as non-Hodgkins' lymphomas, including cutaneous T cell lymphoma (CTCL).

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 27, 2008.

Bonny Harbinger,

Deputy Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–4198 Filed 3–4–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov and http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.
Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.
Aegis Sciences Corporation, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Analytical Laboratories, Inc.).
Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).
Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.
Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200/800–735–5416.
Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.
Dynacare Kasper Medical Laboratories,* 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876.
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).
Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 13112 Evening Creek Drive, Suite 100, San Diego, CA 92128, 858–668–3710/800–882–7272, (Formerly: Poisonlab, Inc.).
Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020/800–898–0180, (Formerly: DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
MAXXAM Analytics Inc.,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: NOVAMANN (Ontario), Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Oregon Medical Laboratories, 123 International Way, Springfield, OR 97477, 541–341–8092.
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521, (Formerly: SmithKline Beecham Clinical Laboratories).
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.
Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400, (Formerly: St. Lawrence Hospital & Healthcare System).
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.
Toxicology Testing Service, Inc., 5426 NW. 79th Ave., Miami, FL 33166, 305–593–2260.
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Elaine Parry,

Acting Director, Office of Program Services, SAMHSA.

[FR Doc. E8–4213 Filed 3–4–08; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Published Privacy Impact Assessments on the Web

AGENCY: Privacy Office, Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Publication of Privacy Impact Assessments.

SUMMARY: The Privacy Office of the Department of Homeland Security is making available nine (9) Privacy Impact Assessments on various programs and systems in the Department. These assessments were approved and published on the Privacy Office's Web site between July 1, 2007 and September 30, 2007.

DATES: The Privacy Impact Assessments will be available on the DHS Web site until May 5, 2008, after which they may be obtained by contacting the DHS Privacy Office (contact information below).

FOR FURTHER INFORMATION CONTACT: Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, Mail Stop 0550, Washington, DC 20528, or e-mail: *pia@dhs.gov.*

SUPPLEMENTARY INFORMATION: July 1, 2007 and September 30, 2007, the Chief Privacy Officer of the Department of Homeland Security (DHS) approved and published nine (9) Privacy Impact Assessments (PIAs) on the DHS Privacy Office Web site, *http://www.dhs.gov/privacy,* under the link for ''Privacy Impact Assessments.'' Below is a short summary of each of those systems, including the DHS component responsible for the system, the name of the system, and the date on which the PIA was approved. Additional information can be found on the Web site or by contacting the Privacy Office.

System: Secure Border Initiative-net.

Component: Customs and Border Protection.

Date of approval: July 20, 2007.

The Secure Border Initiative-net (SBInet) is a DHS Customs and Border Protection (CBP) system designed to detect, identify, apprehend, and remove illegal entrants to the U.S. on and between the Ports of Entry (POE). This PIA addresses Project 28, which is a concept demonstration prototype for the SBInet program. Project 28 focuses on a 28 mile border segment surrounding the Sasabe, Arizona POE. This PIA has been conducted because SBInet collects and processes personally identifiable information (PII).

System: Arrival and Departure Information System.

Component: U.S. VISIT.

Date of approval: August 1, 2007.

The PIA for the Arrival and Departure Information System (ADIS) describes changes to ADIS corresponding to the publication of a new ADIS System of Records Notice (SORN). As now proposed, ADIS will be a DHS-wide system to serve certain programs, including those of the intelligence community, that require information, in support of the DHS mission, on individuals who seek to enter or who have arrived in or departed from the United States. US-VISIT conducted this PIA update based on these proposed changes.

System: Automated Targeting System.

Component: Customs and Border Protection.

Date of approval: August 3, 2007.

CBP has developed the Automated Targeting System (ATS). ATS is one of the most advanced targeting systems in the world. Using a common approach for data management, analysis, rules-based risk management, and user interfaces, ATS supports all CBP mission areas and the data and rules specific to those areas. CBP updated and republished the PIA in conjunction with the SORN and the Notice of Proposed Rulemaking (NPRM) for Privacy Act exemptions that was published on August 6, 2007 in the **Federal Register**.

System: Advanced Passenger Information System Update for Final Rule.

Component: Customs and Border Protection.

Date of approval: August 9, 2007.

CBP issued a Final Rule to amend regulations governing the submission of Advanced Passenger Information System (APIS) data by commercial aircraft and vessels prior to departing for or from the United States and for crew member (and certain non crew-member) data for commercial aircraft overflying the United States. CBP published a PIA and an associated SORN and NPRM for Privacy Act exemptions for APIS.

System: Secure Flight Program.

Component: Transportation Security Administration.

Date of approval: August 9, 2007.

The Secure Flight Program is intended to match identifying information of aviation passengers and certain non-travelers against the consolidated and integrated terrorist watch list maintained by the Federal Government in a consistent and accurate manner, while minimizing false matches and protecting personally identifiable information. The program, this PIA, the associated SORN, and the NPRM are expected to change in response to public comment. A revised PIA and if necessary a revised SORN will be issued in conjunction with the Final Rule for Secure Flight.

System: Western Hemisphere Travel Initiative (WHTI) Land and Sea Rule.

Component: Customs and Border Protection.

Date of approval: August 10, 2007.

CBP, in conjunction with the Bureau of Consular Affairs at the Department of State, published a notice of proposed rulemaking to notify the public of how they intend to implement the WHTI for sea and land ports of entry. The proposed rule, would remove the current regulatory exceptions to the passport requirement provided under sections 212(d)(4)(B) and 215(b) of the Immigration and Nationality Act (INA). The PIA discusses the privacy impact of the program.

System: Verification Information System Update.

Component: U.S. Citizenship and Immigration Services.

Date of approval: September 5, 2007.

United States Citizenship and Immigration Services (USCIS) provides immigration status verification services for benefit determinations and employment authorization through its Verification Division. Presently, two programs exist to implement this mandate: the Systematic Alien Verification for Entitlements (SAVE) program for government benefits and the Employment Eligibility Verification/Basic Pilot Program, recently renamed ''E-Verify,'' for employment authorization for all newly hired employees. The Verification Information System (VIS) is a composite information system incorporating data from various Department of Homeland Security databases and functions as the underlying information technology that

supports these programs. USCIS is amending the PIA dated April 1, 2007 to describe updates to VIS that will improve the ability of USCIS to provide limited citizenship and immigration information to users of SAVE and E-Verify.

System: Advance Passenger Information System (APIS) Update For Customs and Border Protection's General Aviation Notice of Proposed Rulemaking.

Component: Customs and Border Protection.

Date of approval: September 11, 2007.

This is an update to the previous APIS PIA (August 8, 2007) to discuss an expansion of the scope of the APIS data collection to include non-commercial aviation. In conjunction with this update, CBP published a NPRM that proposing to amend the CBP regulations contained in 19 CFR Part 122 to address the advance electronic submission of information for private aircraft arriving in and departing from the United States.

System: Personnel Security Activities Management System.

Component: Office of Security.

Date of approval: September 12, 2007.

The Department of Homeland Security Office of Security uses the Personnel Security Activities Management System (PSAMS) to automate the tracking of the status of Personnel Security related activities at DHS headquarters.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–4244 Filed 3–4–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–0045]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers: 1625–0005, 1625–0020, 1625–0029, 1625–0031, and 1625–0085

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding five Information Collection Requests (ICRs), abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) requesting an extension of their approval for the following collections of information: (1) 1625–0005, Application and Permit to Handle Hazardous Materials; (2) 1625–0020, Security Zones, Regulated Navigation Areas, and Safety Zones; (3) 1625–0029, Self-propelled Liquefied Gas Vessels; (4) 1625–0031, Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J; and (5) 1625–0085, Streamlined Inspection Program. Our ICRs describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before April 4, 2008.

ADDRESSES: To prevent duplicate submissions to the docket [USCG–2007–0045] or to OIRA, please submit your comments and related material by only one of the following means:

(1) *Electronic submission.* (a) To Coast Guard docket at *http://www.regulation.gov*. (b) To OIRA by *e-mail to: nlesser@omb.eop.gov*.

(2) *Mail or hand delivery.* (a) To Docket Management Facility (DMF) (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(3) *Fax.* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in time, mark the fax to the attention of Mr. Nathan Lesser, Desk Officer for the Coast Guard.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the 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. You may also find this docket on the Internet at *http://www.regulations.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICRs addressed. Comments to Coast Guard must contain the docket number of this request, [USCG 2007–0045]. For your comments to OIRA to be considered, they must be received on or before April 4, 2008.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2007–0045], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you

submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them. The Coast Guard and OIRA will consider all comments and material received during the comment period.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Click on ''Search for Dockets,'' and enter the docket number (USCG–2007–0045) in the Docket ID box, and click enter. You may also visit the DMF in room W12–140 on the 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.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov*.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (72 FR 64233, November 15, 2007) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments.

Information Collection Request

1. *Title:* Application and Permit to Handle Hazardous Materials.

OMB Control Number: 1625–0005.

Type of Request: Extension of a currently approved collection.

Affected Public: Shipping agents and terminal operators that handle hazardous materials.

Abstract: Sections 1225 and 1231 of 33 U.S.C. authorize the Coast Guard to establish standards for the handling, storage, and movement of hazardous materials on a vessel and waterfront facility. Regulations in 33 CFR 126.17, 49 CFR 176.100, and 176.415 prescribe the rules for facilities and vessels.

Burden Estimate: The estimated burden has increased from 145 hours to 185 hours a year.

2. *Title:* Security Zones, Regulated Navigation Areas, and Safety Zones.

OMB Control Number: 1625–0020.

Type of Request: Extension of a currently approved collection.

Affected Public: Federal, State, and local government agencies, vessels, and facilities.

Abstract: Sections 1226 and 1231 of 33 U.S.C.; 50 U.S.C. 191 and 195; and parts 6 and 165 of 33 CFR give the Coast Guard Captain of the Port (COTP) the authority to designate security zones in the U.S. for as long as deemed necessary to prevent damage or injury. Section 1223 of 33 U.S.C. authorizes the Coast Guard to prescribe rules to control vessel traffic in areas deemed hazardous because of reduced visibility, adverse weather, or vessel congestion. Section 1225 of 33 U.S.C. authorizes the Coast Guard to establish rules to allow the designation of safety zones where access is limited to authorized persons, vehicles, or vessels to protect the public from hazardous situations.

Burden Estimate: The estimated burden has increased from 194 hours to 295 hours a year.

3. *Title:* Self-propelled Liquefied Gas Vessels.

OMB Control Number: 1625–0029.

Type Of Request: Extension of a currently approved collection.

Affected Public: Owners and operators of self-propelled vessels carrying liquefied gas.

Abstract: Sections 3703 and 9101 of 46 U.S.C. authorize the Coast Guard to establish regulations to protect life, property, and the environment from the hazards associated with the carriage of dangerous liquid cargo in bulk. Part 154 of 46 CFR prescribes these rules for the carriage of liquefied gases in bulk on self-propelled vessels by governing the design, construction, equipment, and operation of these vessels and the safety of personnel aboard them.

Burden Estimate: The estimated burden has increased from 5,416 hours to 6,566 hours a year.

4. *Title:* Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.

OMB Control Number: 1625–0031.

Type Of Request: Extension of a currently approved collection.

Affected Public: Owners, operators, and builders of vessels.

Abstract: Sections 3306 and 3703 of 46 U.S.C. authorize the Coast Guard to establish rules to promote the safety of life and property in commercial vessels. The electrical engineering rules appear at 46 CFR chapter I, subchapter J (parts 110 through 113).

Burden Estimate: The estimated burden has increased from 1,151 hours to 3,529 hours a year.

5. *Title:* Streamlined Inspection Program (SIP).

OMB Control Number: 1625–0085.

Type Of Request: Extension of a currently approved collection.

Affected Public: Owners and operators of vessels.

Abstract: Section 3306 of 46 U.S.C. authorizes the Coast Guard to prescribe regulations necessary to carry out inspections of vessels required under 46 U.S.C. 3301. Within the same subtitle, section 3103 allows the Coast Guard to rely on reports, documents, and records of other persons/methods determined to be reliable, to ensure compliance with vessels and seamen requirements. The SIP regulations under 46 CFR part 8, subpart E, offer owners and operators of inspected vessels an alternative to traditional Coast Guard inspection procedures. Owners and operators of vessels opting to participate in the program will maintain them in compliance with a Company Action Plan (CAP) and Vessel Action Plan (VAP). They will have their own personnel periodically perform many of the tests/examinations conducted by marine inspectors of the Coast Guard, who expect participating vessels will continuously meet a higher level of safety/readiness throughout the inspection cycle.

Burden Estimate: The estimated burden has increased from 2,138 hours to 2,496 hours a year.

Dated: February 14, 2008.

D.T. Glenn

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–4194 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0109]

Merchant Marine Personnel Advisory Committee; Meetings

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will meet in Dania Beach, FL, to discuss various issues relating to the training and fitness of merchant marine personnel. These meetings will be open to the public.

DATES: A working group of MERPAC will meet on Tuesday, April 8th, 2008 from 8 a.m. until 4 p.m. The full MERPAC Committee will meet on Wednesday, April 9th and Thursday,

April 10th, 2008 from 8 a.m. until 4 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 26, 2008. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before March 26, 2008.

ADDRESSES: The working group will meet in Room 217 of the RTM STAR Center, 2 West Dixie Highway, Dania Beach, FL. The full Committee will likewise meet in Room 217 of the RTM STAR Center. Send written material and requests to make oral presentations to Captain Michael Blair, Executive Director of MERPAC, Commandant (CG–5221, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593–0001). This notice is available in our online docket, USCG–2008–0109, at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gould, Assistant to the Executive Director of MERPAC; at 202–372–1409.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Agenda of Meeting

The agenda for the April 8th, 2008, work group meeting of MERPAC is as follows:

(1) Discuss Task Statement 68, concerning a review of the draft Navigation and Vessel Inspection Circular entitled, ''Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials''; and

(2) Discuss Task Statement 69, concerning revisions to forms CG–719K, Merchant Mariner Physical Examination Report, and CG–719K/E, Merchant Marine Certification of Fitness.

The agenda for the April 9th, 2008 meeting of MERPAC is as follows:

(1) The full committee will meet to discuss the objectives for the meeting. Working groups addressing the following task statements may meet to deliberate: Task Statement 30, concerning ''Utilizing Military Sea Service for STCW Certifications''; Task Statement 55, concerning ''Recommendations to Develop a Voluntary Training Program For Deck and Engine Department Entry Level Mariners on Domestic and Seagoing Vessels''; Task Statement 58, concerning ''Stakeholder Communications During MLD Program Restructuring and Centralization''; Task Statement 61, concerning ''Merchant Mariner Medical Waiver Evaluation Guidelines''; Task Statement 68, concerning ''Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials''; and Task Statement 69, concerning ''Revisions to forms CG–719K, Merchant Mariner Physical Examination Report, and CG–719K/E, Merchant Marine Certification of Fitness.''

New working groups may be formed to address issues proposed by the Coast Guard, MERPAC members, or the public. At the end of the day, the working groups will make a report to the full committee on what has been accomplished in their meetings. No action will be taken on these reports on this date.

The agenda for the April 10th, 2008 meeting of MERPAC is as follows:

(1) Introduction;

(2) Working Groups' Reports; and

(3) Other items which may be discussed:

(a) Standing Committee-Prevention Through People.

(b) Briefings concerning on-going projects of interest to MERPAC.

(c) Other items brought up for discussion by the Committee or the public.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than March 26, 2008. Written material for distribution at a meeting should reach the Coast Guard no later than March 26, 2008. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than March 26, 2008.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: February 25, 2008.

H.L. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E8–4196 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0110]

Towing Safety Advisory Committee; Meetings

AGENCY: Coast Guard, DHS.

ACTION: Notice of meetings.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its working groups on the Medical Navigation and Vessel Inspection Circular (NVIC) and on the Inspection of Towing Vessels will meet in Jeffersonville, IN. The committee will also discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. All meetings will be open to the public.

DATES: The working groups will meet on Tuesday, April 1, 2008, from 8 a.m. to 5 p.m. TSAC will meet on Wednesday, April 2, 2008, from 8 a.m. to 3 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations at the meetings should reach the Coast Guard on or before March 24, 2008. Requests to have a copy of your material distributed to each member of the Committee or working groups should reach the Coast Guard electronically on or before March 24, 2008.

ADDRESSES: The working groups and TSAC will meet at the offices of American Commercial Lines; 1701 East Market Street, Jeffersonville, IN 47130 Phone: 812–288–0347. TSAC is utilizing Louisville Airport (SDF) and the Residence Marriott Hotel Downtown Louisville, KY. The link to the hotel's Web site is: *http://www.marriott.com/hotels/travel/sdfgj-residence-inn-louisville-downtown/*.

Send written material and requests to make oral presentations to TSAC's Assistant Executive Director in the **FOR FURTHER INFORMATION CONTACT** section below. This notice and related documents are available on the Internet at *www.regulations.gov* under the docket number USCG–2008–0110.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Assistant Executive Director, TSAC; U.S. Coast Guard Headquarters, CG–5221, Room 1210; 2100 Second Street, SW., Washington, DC 20593–0001. Telephone (202) 372–1401, fax (202) 372–1926, or e-mail at: *Gerald.P.Miante@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463)].

Agenda of Meetings

Towing Vessel Inspection Working Group. The agenda for the working group is to prepare draft recommendations to the committee on the latest round of draft text for inspections.

Medical NVIC Working Group. The agenda for the working group is to prepare draft recommendations to the committee on the draft medical NVIC, and revisions to the Medical Forms CG–719K and 719–KE.

Towing Safety Advisory Committee. The agenda for the committee is as follows:

(1) Update of the Towing Vessel Inspection Working Group;

(2) Discussion and voting on recommendations for the Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials (Medical NVIC), and Medical Forms CG–719K and 719K–E;

(3) Update on the Legislative Change Proposal (LCP) to form the Merchant Mariner Medical Advisory Committee;

(4) Update on the Merchant Mariner Credential (MMC) Rulemaking;

(5) Update on the STCW Rulemaking;

(6) Update on Training and Service Requirements for Merchant Marine Officers;

(7) Update on Commercial/Recreational Boating Interface;

(8) Update on the National Maritime Center (NMC) Restructuring/Centralization;

(9) Update on the Transportation Worker Identification Credential (TWIC); and

(10) Discussion and voting on Task Statement 08–01, Review and recommendations for the revision of NVIC 4–01 ''Licensing and Manning for Officers of Towing Vessels.''

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Director no later than March 24, 2008. Written material (20 copies) for distribution at a meeting should reach the Coast Guard no later than March 21, 2008. If you would like a copy of your material distributed to each member of the Committee or Working Groups in advance of a meeting, please submit it electronically to the Assistant Executive Director, for e-mail distribution, no later than March 21, 2008. Also at the Chair's discretion, members of the public may present comment at the end of the Public Meeting. Please understand that the Committee's schedule may be quite demanding and time for public comment may be limited.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: February 25, 2008.

H.L. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E8–4188 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5188–N–03]

Notice of Proposed Information; Collection: Comment Request; Section 4 Loan Guarantee Recovery Fund

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 5, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Pamela M. Williams, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Thann Young, Office of Rural Housing and Economic Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room #7137 Washington, DC 20410; telephone number (202) 708–2290 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Section 4 Loan Guarantee Recovery Fund.

OMB Control Number, if applicable: 2506–0159.

Description of the Need for the Information and Proposed Use: This request for OMB approval seeks clearance for information collections related to HUD's Loan Guarantee Recovery Fund, a rule that implements section 4 of the ''Church Arson Prevention Act of 1996'' (Pub. L. 104–155, approved July 3, 1996) at CFR part 573.

HUD has responsibility under the Act and implementing regulations to assist eligible nonprofit organizations in rebuilding their properties, which were damaged by acts of arson or terrorism by guaranteeing loans that these organizations receive from financial institutions. With financial assistance, eligible nonprofit organizations may use guaranteed loan funds for a wide range of activities, including (1) the acquisition of real or personal property; (2) the rehabilitation of real property; (3) the construction, reconstruction or replacement of real property improvement; (4) site preparation; (5) architectural, engineering, and security expenses; and (6) refinancing existing indebtedness. With the information provided, HUD must ensure it performs properly with respect to determinations regarding the eligibility of financial institutions and nonprofit organizations, the eligibility of the activities to be carried out, the certifications required by the law and the implementing regulations. The Department must also ensure from the information provided

that entities applying for and receiving loan guarantee assistance understand the requirements and the responsibilities with respect to the Act and the regulations.

Agency Form Numbers (if applicable): HUD–40076–LGA.

Members of Affected Public: Certain nonprofit organizations whose properties have been damaged by an act or acts of arson or terrorism.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

	Number of respondents	Response frequency	Total responses	Hours per response	Annual burden	Hourly rate	Annual costs
Non-Profit Applications	1	1	1	40	40	$25	$1,000
HUD–40076–LGA	12	1	12	.75	8	.....	.....
Financial Institutions (FI) Applications	1	1	1	32	32	25	800
FI Reports	16	12	192	2	384	25	9,600
FI Recordkeeping	16	12	192	2	384	25	9,600
Totals	45	.....	398	.....	848	.....	$21,000

Frequency of Submission: Monthly and Annually.

Status of the proposed information collection:

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 27, 2008.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E8–4179 Filed 3–4–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–08]

Monthly Delinquent Loan Reports

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Information for the evaluation and monitoring of origination and servicing performance by HUD-approved mortgagees. Used to identify potential areas of risk to the insurance fund.

DATES: *Comments Due Date:* April 4, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0060) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Monthly Delinquent Loan Reports.

OMB Approval Number: 2502–0060.

Form Numbers: HUD–92068–A.

Description of the Need for the Information and Its Proposed Use: Information for the evaluation and monitoring of origination and servicing performance by HUD-approved mortgagees. Used to identify potential areas of risk to the insurance fund.

Frequency of Submission: Monthly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	240	12	.....	2.5	....	7,200

Total Estimated Burden Hours: 7,200.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 28, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–4180 Filed 3–4–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[80213–9421–0000–7B]

Notice of Adoption of an Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of adoption of an environmental impact statement prepared by the National Park Service for the Giacomini Wetland Restoration Project.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), give notice of our intent to adopt the National Park Service's existing environmental impact statement/environmental impact report (EIS/EIR) for the Giacomini Wetland Restoration Project in Marin County, California (Project). We are considering a decision to approve a National Coastal Wetlands Conservation Program grant for the California State Coastal Conservancy (SCC) to assist SCC in implementing the Project. The grant would help SCC restore and conserve a 556-acre coastal wetland ecosystem at the head of Tomales Bay. We propose to adopt the existing EIS/EIR, which evaluates the environmental effects of implementing field and construction activities related to restoring tidal and freshwater marsh habitat on the former dairy farm.

DATES: We must receive any written comments on or before April 4, 2008.

ADDRESSES: Send written comments to Ms. Laura Valoppi, Chief of Federal Assistance, California and Nevada Region, Fish and Wildlife Service, 2800 Cottage Way, W–2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Miller, Fish and Wildlife Service, 2800 Cottage Way, Suite W–2606, Sacramento, CA 95825, or call (916) 978–6185.

SUPPLEMENTARY INFORMATION:

Availability of Documents

The final EIS/EIR for the Giacomini Wetlands Restoration Project is available online for public access and review at: *http://www.nps.gov/pore/parkmgmt/planning_giacomini_wrp.htm*. A copy of the final EIS/EIS will be available for public inspection, by appointment, during normal business hours at the Fish and Wildlife Service's Federal Assistance Office, 2800 Cottage Way, Suite W–1729, Sacramento, CA, 95825, for 30 days after this Notice is published in the **Federal Register**. Appointments may be arranged by calling (916) 978–6185 during normal business hours.

Background

We are considering a decision to approve a National Coastal Wetland Conservation grant to the SCC to assist in funding project activities that will help meet the objectives for the wetland restoration project on Giacomini Ranch and Olema Creek: (1) Improving water quality in Tomales Bay by restoring hydrologic connectivity to floodplains currently maintained as pasture through diking; (2) improving other natural functions provided by wetlands, such as food chain support and fish and wildlife habitat; and (3) providing opportunities for the public to experience and enjoy the wetlands and the restoration process.

Project Location

The Project is located in the north district of the Golden Gate National Recreation Area and the Point Reyes National Seashore at the southern end of Tomales Bay in Marin County, California.

National Environmental Policy Act

The proposed Federal decision to approve and grant Federal funds to implement the wetland restoration project triggers the need for compliance with the National Environmental Policy Act (NEPA). The NPS—as the acting lead agency for the NEPA process—and the California State Lands Commission—as the lead agency for the CEQA process—prepared and finalized a combined EIS/EIR document to address Federal and State actions associated with implementing the Project. The EIS/EIR evaluated one No Action alternative and four restoration or ''Action'' alternatives that vary in the amount of acres to be restored. The alternative selected for implementation is Alternative D, which is also the environmentally preferred alternative. The Project EIS/EIR was finalized in June 2007, and the NPS signed a Record of Decision (ROD) on August 18, 2007.

The final EIS/EIR for the Giacomini Wetland Restoration Project satisfies the requirement for NEPA compliance for the overall wetlands restoration project and includes identification of and supporting environmental documentation for necessary local, State, and Federal permits. Our review of the final EIS/EIR and ROD finds that they adequately address appropriate alternatives, and the environmental effects of the alternatives adequately consider the issues relevant to the Federal decision to grant Federal funds to the SCC to assist in implementing the selected alternative and they fully comply with implementing regulations of NEPA (40 CFR parts 1500–1508). Because the final EIS/EIR also provides substantial information needed to support grant applications for obtaining the funding necessary to implement elements of the overall project, we intend to adopt the existing final EIS/EIR to meet our obligation to fully comply with the regulations for implementing NEPA for the proposed Federal grant decision.

Public Review

We provide this notice under the regulations for implementing NEPA, as amended (40 CFR 1506.6). We invite the public to review the final EIS/EIR during a 30-day public comment period (see **DATES**). 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 27, 2008.

Ken McDermond,

Deputy Regional Director, California and Nevada Region, Sacramento, California.

[FR Doc. E8–4268 Filed 3–4–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[80221–1113–0000–C4]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Reviews of 58 Species in California and Nevada; Availability of Completed 5-Year Reviews in California, Nevada and Southern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of 5-year reviews; availability of completed 5-year reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service, initiate 5-year reviews for 58 species under the Endangered Species Act of 1973, as amended (Act). We request any new information on these species that may have a bearing on their classification as endangered or threatened (see Table 1 below). Based on the results of these 5-year reviews, we will make a finding on whether these species are properly classified under the Act. We also indicate in this notice the 5-year reviews we completed for species in California, Nevada and southern Oregon in FY 2007 and early FY 2008.

DATES: To allow us adequate time to conduct these reviews, we must receive your information no later than May 5, 2008. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how to submit information and review the information that we receive on these species, see ''Public Solicitation of New Information.''

FOR FURTHER INFORMATION CONTACT: For species-specific information, contact the appropriate person listed under ''Public Solicitation of New Information.'' For contact information about completed 5-year reviews, see ''Completed 5-Year Reviews.'' Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Why Do We Conduct a 5-Year Review?

Under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*), we maintain a List of Endangered and Threatened Wildlife and Plants at 50 CFR 17.11 (for animals) and 17.12 (for plants) (List). We amend the List by publishing final rules in the **Federal Register**. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires that we determine (1) whether a species no longer meets the definition of threatened or endangered and should be removed from the List (delisted); (2) whether a species listed as endangered more properly meets the definition of threatened and should be reclassified to threatened; or (3) whether a species listed as threatened more properly meets the definition of endangered and should be reclassified to endangered. Using the best scientific and commercial data available, a species will be considered for delisting if the data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification requires a separate rulemaking process. Therefore, we are requesting submission of any new information (best scientific and commercial data) on these species since they were originally listed or since the species' most recent status review.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under review. This notice announces initiation of our active review of 58 species. This notice announces initiation of our active review of the species in Table 1.

TABLE 1.—SUMMARY OF LISTING INFORMATION, 27 WILDLIFE SPECIES AND 31 PLANT SPECIES IN CALIFORNIA AND NEVADA

Common name	Scientific name	Status	Where listed	Final listing rule
		ANIMALS		
Amargosa vole	*Microtus californicus scirpensis*	Endangered	U.S.A. (CA)	49 FR 45160; 11/15/1984
Arroyo (=arroyo southwestern) toad.	*Bufo californicus*	Endangered	U.S.A. (CA), Mexico	59 FR 64859; 12/16/1994
Ash Meadows naucorid	*Ambrysus amargosus*	Threatened	U.S.A. (NV)	50 FR 20777; 05/20/1985
Bay checkerspot butterfly	*Euphydryas editha bayensis*	Threatened	U.S.A. (CA)	52 FR 35366; 09/18/1987
Big Spring spinedace	*Lepidomeda mollispinis pratensis.*	Threatened	U.S.A. (NV)	50 FR 12298; 03/28/1995
Callippe silverspot butterfly	*Speyeria callippe callippe*	Endangered	U.S.A. (CA)	62 FR 64306; 12/05/1997
Carson wandering skipper	*Pseudocopaeodes eunus obscurus.*	Endangered	U.S.A. (CA, NV)	67 FR 51116; 08/07/2002
Coastal California gnatcatcher.	*Polioptila californica californica*	Threatened	U.S.A. (CA); Mexico	58 FR 16742; 03/30/1993
Desert tortoise, Mojave population.	*Gopherus agassizii*	Threatened	U.S.A., except in Sonoran Desert.	55 FR 12178; 04/02/1990
Light-footed clapper rail	*Rallus longirostris levipes*	Endangered	U.S.A (CA)	35 FR 16047; 10/13/1970
Mission blue butterfly	*Icaricia icarioides missionensis*	Endangered	U.S.A (CA)	41 FR 22041; 06/01/1976
Mount Hermon June beetle	*Polyphylla barbata*	Endangered	U.S.A. (CA)	62 FR 3616; 1/24/1997
Mohave tui chub	*Gila bicolor mohavensis*	Endangered	U.S.A. (CA)	35 FR 16047; 10/13/1970
Myrtle's silverspot butterfly	*Speyeria zerene myrtleae*	Endangered	U.S.A. (CA)	57 FR 27848; 06/22/1992

TABLE 1.—SUMMARY OF LISTING INFORMATION, 27 WILDLIFE SPECIES AND 31 PLANT SPECIES IN CALIFORNIA AND NEVADA—Continued

Common name	Scientific name	Status	Where listed	Final listing rule
Owen's pupfish	*Cyprinodon radiosus*	Endangered	U.S.A. (CA)	32 FR 4001; 3/11/1967
Owen's tui chub	*Gila bicolor snyderi*	Endangered	U.S.A. (CA)	50 FR 31592; 08/05/1985
Pahranagat roundtail chub	*Gila robusta jordani*	Endangered	U.S.A. (NV)	35 FR 16047; 10/13/1970
Point Arena mountain beaver	*Aplodontia rufa nigra*	Endangered	U.S.A (CA)	56 FR 64716; 12/12/1991
Quino checkerspot butterfly	*Euphydryas editha quino (wrighti).*	Endangered	U.S.A. (CA); Mexico	62 FR 2313; 01/16/1997
San Bruno elfin butterfly	*Callophrys mossii bayensis*	Endangered	U.S.A (CA)	41 FR 22041; 06/01/1976
San Bernardino kangaroo rat	*Dipodomys merriami parvus*	Endangered	U.S.A (CA)	63 FR 51005; 09/24/1998
San Clemente sage sparrow	*Amphispiza belli clementeae*	Threatened	U.S.A (CA)	42 FR 40682; 08/11/1977
Santa Cruz long-toed salamander.	*Ambystoma macrodactylum croceum.*	Endangered	U.S.A. (CA)	32 FR 4001; 3/11/1967
Salt marsh harvest mouse	*Reithrodontomys raviventris*	Endangered	U.S.A. (CA)	35 FR 16047; 10/13/1970
Shasta crayfish	*Pacifastacus fortis*	Endangered	U.S.A. (CA)	53 FR 38465; 09/30/1988
Unarmored threespine stickleback.	*Gasterosteus aculeatus williamsoni.*	Endangered	U.S.A. (CA)	35 FR 16047; 10/13/1970
Zayante band-winged grasshopper.	*Trimerotropis infantilis*	Endangered	U.S.A. (CA)	62 FR 3616; 01/24/1997
		PLANTS		
Ash Meadows milk-vetch	*Astragalus phoenix*	Threatened	U.S.A. (NV)	50 FR 20777; 05/20/1985
Calistoga allocarya	*Plagiobothrys strictus*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997
Clara Hunt's milk-vetch	*Astragalus clarianus*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997
Clover lupine	*Lupinus tidestromii*	Endangered	U.S.A. (CA)	57 FR 27848; 06/22/1992
Coastal dunes milk-vetch	*Astragalus tener* var. *titi*	Endangered	U.S.A. (CA)	63 FR 43100; 8/12/1998
Conejo dudleya	*Dudleya abramsii* ssp. *parva*	Threatened	U.S.A. (CA)	62 FR 4172; 01/29/1997
Cushenberry buckwheat	*Eriogonum ovalifolium* var. *vineum.*	Endangered	U.S.A (CA)	59 FR 43652; 08/24/1994
Cushenberry milk-vetch	*Astragalus albens*	Endangered	U.S.A (CA)	59 FR 43652; 08/24/1994
Cushenberry oxytheca	*Acanthoscyphus (Oxytheca) parishii* var. *goodmaniana.*	Endangered	U.S.A (CA)	59 FR 43652; 08/24/1994
Fleshy owl's-clover	*Castilleja campestris* ssp. *succulenta.*	Threatened	U.S.A. (CA)	62 FR 14338; 03/26/1997
Hickman's potentilla	*Potentilla hickmanii*	Endangered	U.S.A. (CA)	63 FR 43100; 08/12/1998
Ione buckwheat (incl.Irish Hill).	*Eriogonum apricum (incl.* var. *prostratum*).	Endangered	U.S.A. (CA)	64 FR 28403; 0526/1999
Ione manzanita	*Arctostaphylos myrtifolia*	Threatened	U.S.A. (CA)	64 FR 28403; 0526/1999
Kenwood Marsh checkermallow.	*Sidalcea oregano* ssp. *valida*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997
Large-flowered fiddleneck	*Amsinckia grandiflora*	Endangered	U.S.A. (CA)	50 FR 54791; 10/22/1997
Marcescent dudleya	*Dudleya cymosa* ssp. *marcescens.*	Threatened	U.S.A. (CA)	62 FR 4172; 01/29/1997
Napa bluegrass	*Poa napensis*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997
Nevin's barberry	*Berberis nevinii*	Endangered	U.S.A. (CA); Mexico	63 FR 54956; 10/13/1998
Parish's daisy	*Erigeron parishii*	Threatened	U.S.A (CA)	59 FR 43652; 08/24/1994
Peirson's milk-vetch	*Astragalus magdalenae* var. *peirsonii.*	Threatened	U.S.A (CA)	63 FR 53596; 10/06/1998
Pitkin Marsh lily	*Lilium pardalinum* ssp. *pitkinense.*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997

TABLE 1.—SUMMARY OF LISTING INFORMATION, 27 WILDLIFE SPECIES AND 31 PLANT SPECIES IN CALIFORNIA AND NEVADA—Continued

Common name	Scientific name	Status	Where listed	Final listing rule
San Bernardino Mountains bladderpod.	*Physaria (Lesquerella) kingii*	Endangered	U.S.A (CA)	59 FR 43652; 08/24/1994
San Diego thornmint	*Acanthomintha ilicifolia*	Threatened	U.S.A. (CA); Mexico	63 FR 54937; 10/13/1998
Santa Monica Mountains dudleya.	*Dudleya cymosa* ssp. *Ovatifolia*	Threatened	U.S.A. (CA)	62 FR 4172; 01/29/1997
Tiburon jewelflower	*Streptanthus niger*	Endangered	U.S.A. (CA)	60 FR 6671; 02/03/1995
Tiburon mariposa lily	*Calochortus tiburonensis*	Threatened	U.S.A. (CA)	60 FR 6671; 02/03/1995
Tiburon paintbrush	*Castilleja affinis* ssp. *Neglecta*	Endangered	U.S.A. (CA)	60 FR 6671; 02/03/1995
Triple-ribbed milk-vetch	*Astragalus tricarinatus*	Endangered	U.S.A (CA)	63 FR 53596; 10/06/1998
Verity's dudleya	*Dudleya verityi*	Threatened	U.S.A. (CA)	62 FR 4172; 01/29/1997
Western lily	*Lilium occidentale*	Endangered	U.S.A. (CA, OR)	59 FR 42171; 08/17/1994
White sedge	*Carex albida*	Endangered	U.S.A. (CA)	62 FR 55791; 10/22/1997

What Information Do We Consider in the Review?

In our 5-year review, we consider all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that has become available since the current listing determination or the most recent status review, such as—(A) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (B) Habitat conditions including, but not limited to, amount, distribution, and suitability; (C) Conservation measures that have been implemented that benefit the species; (D) Threat status and trends (see five factors under heading ''How Do We Determine Whether a Species is Endangered or Threatened?''); and (E) Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Public Solicitation of New Information

We request any new information concerning the status of these wildlife and plant species. See ''What Information Do We Consider in Our Review?'' for specific criteria. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. We specifically request information regarding data from any systematic surveys, as well as any studies or analysis of data that may show population size or trends; information pertaining to the biology or ecology of these species; information regarding the effects of current land management on population distribution and abundance; information on the current condition of habitat; and recent information regarding conservation measures that have been implemented to benefit the species. Additionally, we specifically request information regarding the current distribution of populations and evaluation of threats faced by the species in relation to the five listing factors (as defined in section 4(a)(1) of the Act) and the species' listed status as judged against the definition of threatened or endangered. Finally, we solicit recommendations pertaining to the development of, or potential updates to recovery plans and additional actions or studies that would benefit these species in the future.

Our practice is to make information, including names and home addresses of respondents, available for public review. Before including your address, telephone number, e-mail address, or other personal identifying information in your response, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. While you can ask us in your response to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

Mail or hand-deliver information on the following species to the U.S. Fish and Wildlife Service at the corresponding address below. You may also view information we receive in response to this notice, as well as other documentation in our files, at the following locations by appointment, during normal business hours.

For coastal California gnatcatcher, light-footed clapper rail, Quino checkerspot butterfly, San Bernardino kangaroo rat, San Clemente sage sparrow, Cushenbury buckwheat, Cushenbury milk-vetch, Cushenbury oxytheca, Nevin's barberry, Parish's daisy, Peirson's milk-vetch, San Bernardino Mountains bladderpod, San Diego thornmint, and triple-ribbed milk-vetch, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011. Information may also be submitted electronically at *fw8cfwocomments@fws.gov*. To obtain further information, contact Scott Sobiech at the Carlsbad Fish and Wildlife Office at (760) 431–9440.

For the Amargosa vole, arroyo (= arroyo southwestern) toad, Mount Hermon june beetle, Mohave tui chub, Owens pupfish, Owens tui chub, Santa

Cruz long-toed salamander, unarmored three-spine stickleback, Zayante band-winged grasshopper, coastal dunes milk-vetch, Conejo dudleya, Hickman's potentilla, marcescent dudleya, Santa Monica Mountains dudleya, and Verity's dudleya, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. Information may also be submitted electronically at *fw1vfwo5year@fws.gov*. To obtain further information on the animal species, contact Mike McCrary at the Ventura Fish and Wildlife Office at (805) 644–1766. To obtain further information on the plant species, contact Connie Rutherford at the Ventura Fish and Wildlife Office at (805) 644–1766.

For bay checkerspot butterfly, callippe silverspot butterfly, mission blue butterfly, Myrtle's silverspot butterfly, San Bruno elfin butterfly, salt marsh harvest mouse, Shasta crayfish, Calistoga allocarya, Clara Hunt's milk-vetch, clover lupine, fleshy owl's-clover, Ione buckwheat (including Irish Hill), Ione manzanita, Kenwood Marsh checkermallow, large-flowered fiddleneck, Napa bluegrass, Pitkin Marsh lily, Tiburon jewelflower, Tiburon mariposa lily, Tiburon paintbrush and white sedge, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825. Information may also be submitted electronically at *fw1sfo5year@fws.gov*. To obtain further information, contact Kirsten Tarp at the Sacramento Fish and Wildlife Office at (916) 414–6600.

For Ash Meadows naucorid, Big Spring spinedace, Carson wandering skipper, desert tortoise (Mohave population), Pahranagat roundtail chub, and Ash Meadows milk-vetch, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, NV 89502. Information may also be submitted electronically at *fw1nfwo_5yr@fws.gov*. To obtain further information on Ash Meadows naucorid, Big Spring spinedace, Pahranagat roundtail chub and Ash Meadows milk-vetch, contact Janet Bair at the Southern Nevada Field at (702) 515–5230. To obtain further information on Carson wandering skipper, contact Selena Werdon at the Nevada Fish and Wildlife Office at (775) 861–6300. To obtain further information on desert tortoise, contact Roy Averill-Murray at the Nevada Fish and Wildlife Office at (775) 861–6300.

For Point Arena Mountain beaver and western lily, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 11655 Heindon Road, Arcata, CA 95521. Information may also be submitted electronically at *fw8pamb@fws.gov* for Point Arena Mountain beaver and *fw8wlily@fws.gov* for western lily. To obtain further information on Point Arena Mountain beaver, contact Robin Hamlin at the Arcata Fish and Wildlife Office at (707) 822–7201. To obtain further information on western lily, contact Dave Imper at the Arcata Fish and Wildlife Office at (707) 822–7201.

All electronic information must be submitted in Text format or Rich Text format. Include the following identifier in the subject line of the e-mail: Information on 5-year review for [NAME OF SPECIES], and include your name and return address in the body of your message.

How Are These Species Currently Listed?

The current listing status of species for which 5-year reviews are being initiated by this notice is identified in Table 1 above. The current status may also be found on the List, which covers all listed species, and which is available on our Internet site at *http://endangered.fws.gov/wildlife.html#Species*.

Definitions Related to This Notice

To help you submit information about the species we are reviewing, we provide the following definitions:

Species includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature;

Endangered species means any species that is in danger of extinction throughout all or a significant portion of its range; and

Threatened species means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E)Other natural or manmade factors affecting its continued existence. Section 4(b)(1)(A) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

What Could Happen as a Result of Our Review?

For each species under review, if we find new information that indicates a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from threatened to endangered (uplist); (b) reclassify the species from endangered to threatened (downlist); or (c) remove the species from the List (delist). If we determine that a change in classification is not warranted, then the species will remain on the List under its current status.

Completed 5-Year Reviews

We also take this opportunity to inform the public of 39 5-year reviews that we completed in FY 2007 and early FY 2008 for species in California, Nevada, and southern Oregon. These 39 reviews can be found at *http://www.fws.gov/cno/es/5yr.html*. Any recommended change in listing status will require a separate rulemaking process. The table below summarizes the results of these reviews:

TABLE 2.—SUMMARY OF SPECIES IN CALIFORNIA, NEVADA, AND SOUTHERN OREGON FOR WHICH 5-YEAR REVIEWS WERE COMPLETED IN FY 2007 AND EARLY FY 2008

Common name	Scientific name	Recommendation	Lead Fish and Wildlife Office	Contact
		ANIMALS		
Brown pelican	*Pelecanus occidentalis*	Delist	Region 2	Steve Chambers at (505) 248–6658
California freshwater shrimp.	*Syncaris pacifica*	No status change	Sacramento	Al Donner at (916) 414–6600
Conservancy fairy shrimp	*Branchinecta conservatio*	No status change	Sacramento	Al Donner at (916) 414–6600
Kern primrose sphinx moth	*Euproserpinus euterpe*	No status change	Sacramento	Al Donner at (916) 414–6600
Laguna Mountains skipper	*Pyrgus ruralis lagunae*	No status change	Carlsbad	Jane Hendron at (760) 431–9440
Longhorn fairy shrimp	*Branchinecta longiantenna*	No status change	Sacramento	Al Donner at (916) 414–6600
Lost River sucker	*Deltistes luxatus*	Downlist	Klamath Falls	Curt Mullis at (541) 885–8481
Lotis blue butterfly	*Lycaeides argyrognomon lotis*.	No status change	Arcata.	
Shortnose sucker	*Chasmistes brevirostris*	No status change	Klamath Falls	Curt Mullis at (541) 885–8481
Tidewater goby	*Eucyclogobius newberryi*	Downlist	Ventura	Lois Grunwald at (805) 644–1766
Vernal pool fairy shrimp	*Branchinecta lynchi*	No status change	Sacramento	Al Donner at (916) 414–6600
Vernal pool tadpole shrimp	*Lepidurus packardi*	No status change	Sacramento	Al Donner at (916) 414–6600
		PLANTS		
Amargosa niterwort	*Nitrophila mohavensis*	No status change	Nevada	Jeannie Stafford at (775) 861–6300
Ash Meadows gumplant	*Grindelia fraxino-pratensis*	No status change	Nevada	Jeannie Stafford at (775) 861–6300
Ben Lomond spineflower	*Chorizanthe pungens* var. *hartwegiana*.	No status change	Ventura	Lois Grunwald at (805) 644–1766
Catalina Island mountain mahogany.	*Cercocarpus traskiae*	No status change	Carlsbad	Jane Hendron at (760) 431–9440
Chinese Camp brodiaea	*Brodiaea pallida*	No status change	Sacramento	Al Donner at (916) 414–6600
Chorro Creek bog thistle	*Cirsium fontinale* var. *obispoense*.	No status change	Ventura	Lois Grunwald at (805) 644–1766
Eureka Valley dunegrass	*Swallenia alexandrae*	Delist	Ventura	Lois Grunwald at (805) 644–1766
Eureka Valley evening primrose.	*Oenothera avita* ssp. *eurekensis*.	Delist	Ventura	Lois Grunwald at (805) 644–1766
Greene's tuctoria	*Tuctoria greenei*	No status change	Sacramento	Al Donner at (916) 414–6600
Hartweg's golden sunburst	*Pseudobahia bahiifolia*	No status change	Sacramento	Al Donner at (916) 414–6600
Hoffman's rockcress	*Arabis hoffmannii*	No status change	Ventura	Lois Grunwald at (805) 644–1766
Howell's spineflower	*Chorizanthe howellii*	No status change	Arcata	Randy Brown at (707) 822–7201
Keck's checkermallow	*Sidalcea keckii*	No status change	Sacramento	Al Donner at (916) 414–6600
Mariposa pussypaws	*Calyptridium pulchellum*	No status change	Sacramento	Al Donner at (916) 414–6600
Orcutt's spineflower	*Chorizanthe orcuttiana*	No status change	Carlsbad	Jane Hendron at (760) 431–9440
Red Hills vervain	*Verbena californica*	No status change	Sacramento	Al Donner at (916) 414–6600
San Clemente Island broom.	*Lotus dendroideus* ssp.*traskiae*.	Downlist	Carlsbad	Jane Hendron at (760) 431–9440
San Clemente Island bushmallow.	*Malacothamnus clementinus*.	Downlist	Carlsbad	Jane Hendron at (760) 431–9440
San Clemente Island paintbrush.	*Castilleja grisea*	Downlist	Carlsbad	Jane Hendron at (760) 431–9440
San Clemente Island woodland star.	*Lithophragma maximum*	No status change	Carlsbad	Jane Hendron at (760) 431–9440

TABLE 2.—SUMMARY OF SPECIES IN CALIFORNIA, NEVADA, AND SOUTHERN OREGON FOR WHICH 5-YEAR REVIEWS WERE COMPLETED IN FY 2007 AND EARLY FY 2008—Continued

Common name	Scientific name	Recommendation	Lead Fish and Wildlife Office	Contact
San Joaquin adobe sunburst.	*Pseudobahia peirsonii*	No status change	Sacramento	Al Donner at (916) 414–6600
Santa Barbara Island liveforever.	*Dudleya traskiae*	No status change	Ventura	Lois Grunwald at (805) 644–1766
Santa Cruz Island bushmallow.	*Malacothamnus fasciculatus* var. *nesioticus*.	No status change	Ventura	Lois Grunwald at (805) 644–1766
Santa Rosa Island manzanita.	*Arctostaphylos confertiflora*	No status change	Ventura	Lois Grunwald at (805) 644–1766
Showy Indian clover	*Trifolium amoenum*	No status change	Sacramento	Al Donner at (916) 414–6600
Soft-leaved paintbrush	*Castilleja mollis*	No status change	Ventura	Lois Grunwald at (805) 644–1766
Yreka phlox	*Phlox hirsuta*	No status change	Yreka	Matt Baun or Nadine Kanim at (530) 842–5763

Authority: This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 27, 2008.

Ken McDermond,

Regional Director, Region 8, U.S. Fish and Wildlife Service.

[FR Doc. E8–4258 Filed 3–4–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–056–5853–EU; N–79534 et al.; 8–08807; TAS: 14X5232]

Notice of Realty Action: Competitive Sealed Bid Sale of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer 15 parcels of public land of approximately 143.24 acres in the Las Vegas Valley by competitive sealed bid sale procedures at not less than the fair market value (FMV). The sale will be conducted pursuant to the Southern Nevada Public Land Management Act of 1998 (SNPLMA), Public Law 105–263, 112 Stat. 2343, as amended. The SNPLMA sale will be subject to the applicable provisions of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 and 1719, respectively, and BLM land sale and mineral conveyance regulations at 43 CFR 2710 and 2720.

DATES: Interested parties may submit written comments regarding the proposed sale of public lands and the environmental assessment (EA) until April 21, 2008. BLM will accept sealed bids for the offered parcels from qualified bidders until June 12, 2008, at 4:30 p.m., Pacific Time, at the address of the Las Vegas Field Office listed below. Sealed bids will be opened at a scheduled bid opening at the Las Vegas Field Office on June 17, 2008, at 10 a.m., Pacific Time.

ADDRESSES: Mail written comments to the BLM Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130.

FOR FURTHER INFORMATION CONTACT: Brenda Wilhight, by e-mail at *Brenda_Wilhight@nv.blm.gov* or at (702) 515–5172. For general information on BLM public land sale procedures, refer to the following Web address: *http://www.blm.gov/nv/st/en/fo/lvfo/snplma/Land_Auctions.html*.

SUPPLEMENTARY INFORMATION: This public sale is in conformance with the Las Vegas Resource Management Plan (RMP), approved on October 5, 1998. BLM has determined that the proposed action conforms to the RMP decision LD–1 under the authority of FLPMA.

The public lands will be offered for competitive sale by sealed bid process at not less than the appraised FMV for each parcel and offered under the terms and conditions of this notice.

Mount Diablo Meridian, Nevada

T. 22 S. R. 60 E.
Sec. 19, Lot 69, N½SW¼SE¼NE¼, S½SW¼NE¼NW¼.
Sec. 22, S½NW¼SE¼SW¼NE¼, S½NE¼SW¼SW¼NE¼.
T. 22 S., R. 61 E.
Sec. 30, SW¼NE¼SW¼NE¼, SE¼NW¼SW¼NE¼, W½NW¼SE¼SW¼NE¼, NE¼SW¼SW¼NE¼, E½NW¼SW¼SW¼NE¼, E½SW¼SW¼SW¼NE¼, E½SE¼SW¼SW¼NE¼, E½NE¼NE¼NE¼NE¼.

Containing approximately 27.50 acres, more or less.

The total acreage for this sale is 143.24 acres. Of that acreage 115.74 acres were offered in previous sales. Their legal descriptions are not included in this notice of realty action.

Parcels N–79534, N–79544, N–79545, N–79546, N–79548, N–79550, N–79551, N–81979, and N–84196, consisting of a total of 103.24 acres, more or less, are being offered as an assemblage. Prospective bidders who wish to bid on these parcels as one, may do so by sealed bid. The bidding process for the entire 103.24 acres begins at the consolidated FMV of the nine (9) parcels. If there are no sealed bids received by the close of business on June 12, 2008, these parcels will be offered as individual parcels at the bid opening on June 17, 2008 by supplemental sealed bid process.

Maps delineating the individual proposed sale parcels and the current appraised values for each parcel are available for public review at the Las Vegas Field Office, and at *https://www.propertydisposal.gsa.gov*.

The land is being offered for sale using the competitive sealed bid procedures conducted pursuant to 43 CFR 2711.3–1. Interested bidders must submit sealed bids to the Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, not later than June 12, 2008, 4:30 p.m., Pacific Time.

Sealed bids must contain 20 percent of the total amount of the bid. Each bid must be accompanied by a certified

check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for an amount not less than 20 percent of the total amount of the bid. Personal checks will not be accepted. Sealed bid envelopes must be clearly marked on the front lower left corner with ''SEALED BID BLM LAND SALE, JUNE 17, 2008'', and ''BLM SERIAL NUMBER N–____'' for each sale parcel. Bids must be for not less than the FMV and a separate bid must be submitted for each parcel. The bid envelope must contain the completed BLM Form, Certificate of Eligibility, stating the name, mailing address, and phone number of the entity/person making the bid.

Sealed bids will be opened and recorded to determine the high bidders on June 17, 2008, 10 a.m., Pacific Time at the Las Vegas Field Office. The highest qualifying bidder for each parcel will be declared the high bidder and the high bidder will receive written notice. Bidders submitting matching high bid amounts for the parcels will be provided an opportunity to submit a supplemental sealed bid. Following the sealed bid opening, all funds submitted with sealed bids will be returned to the unsuccessful bidders upon presentation of photo identification at the designated area.

The FMV will be made available 60 days prior to the sealed bid closing date at the Las Vegas Field Office.

The successful high bidder will be allowed 180 days from the date of the sale, December 15, 2008, to submit the remainder of the full bid price in the form of a certified check, money order, bank draft, or cashier's check made payable to the Bureau of Land Management. Personal checks will not be accepted. Failure to submit the full bid price prior to the expiration of the 180th day following the sale date will result in the forfeiture of the bid deposit to the BLM, and the parcel will be offered to the second highest qualifying bidder at their original bid. If there are no acceptable bids, the parcel may remain available for sale on a continuing basis in accordance with the competitive sale procedures described in 43 CFR 2711.3–1 without further legal notice.

Terms and Conditions: Certain minerals will be reserved in accordance with the BLM approved Mineral Potential Report, dated January 22, 1999. An offer to purchase these parcels will constitute an application for mineral conveyance of the ''no known value'' mineral interests. In conjunction with the final payment, an applicant for ''no known value'' mineral interests will be required to pay a $50 non-refundable filing fee for processing the conveyance of the ''no known value'' mineral interests which will be sold simultaneously with the surface interests.

The following numbered terms and conditions would appear on the conveyance documents for these parcels, as follows:

1. Discretionary leasable and saleable mineral deposits on the lands in Clark County, if any, reserved to the United States, in accordance with the above referenced Mineral Potential Report. Permittees, licensees, and lessees of the United States retain the right to prospect for, mine, and remove such leasable and saleable minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. A right-of-way for federal aid highway (Blue Diamond Road) purposes reserved to the Federal Highway Administration, its successors and assigns, by right-of-way No. Nev-012728, pursuant to the Act of August 27, 1958 (23 U.S.C. 107(D)) within sale parcels N–84290 and N–84292;

4. All parcels are subject to valid existing rights;

5. All parcels are subject to reservations for roads, public utilities and flood control purposes in accordance with the local governing entities' transportation plans;

6. By accepting this patent, the patentee agrees to indemnify, defend and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees, its employees, agents, contractors, or lessees, or any third-party, arising out of, or in connection with, the patentees use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees, its employees, agents, contractors, or lessees, or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, state, and local laws and regulations applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, damages of any kind incurred by the United States; (4) Other releases or threatened releases on, into or under land, property and other interests of the United States by solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or state environmental laws; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and state environmental laws were generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; (6) Or natural resource damages as defined by Federal and state law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction; and

7. Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, 100 Stat. 1670, notice is hereby given that the above-described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, express or implied, is given by the United States as to title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of any parcel will not be on a contingency basis. However, to the extent required by law, all parcels are subject to the requirements of section 120(h) of the CERCLA.

Federal law requires that bidders must be (1) United States citizens 18 years of age or older; (2) a corporation subject to the laws of any State or of the United States; (3) an entity including, but not limited to associations or partnerships capable of acquiring and owning real property, or interests therein, under the laws of the State of Nevada; or (4) a State, State instrumentality, or political subdivision authorized to hold real property. U.S. citizenship is evidenced by presenting a birth certificate, passport, or naturalization papers. Failure to submit the above requested documents by July 17, 2008 shall result in the cancellation of the sale and forfeiture of the bid deposit.

Furthermore, the parcels may be subject to land use applications received prior to publication of this Notice if processing the application would have

no adverse effect on the marketability of title, or the FMV of a parcel. Encumbrances of records, appearing in the BLM public files for the parcels proposed for sale, are available for review during business hours, 7:30 a.m. to 4:30 p.m., Pacific Time, Monday through Friday, at the Las Vegas Field Office, except during federally recognized holidays. Subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any right-of-way within the parcels may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable, or to an easement.

BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Las Vegas Field Office prior to 30 days before the bidder's scheduled closing date. There are no exceptions.

Within 30 days of the sale, BLM will in writing, either accept or reject all bids received. Pursuant to 43 CFR 2711.3–1, a bid is the bidder's offer to BLM to purchase the parcel. No contractual or other rights against the United States may accrue until BLM officially accepts the offer to purchase, and the full bid price is submitted by the 180th day following the sale. All name changes and supporting documentation must be received at the Las Vegas Field Office by July 17, 2008, 4:30 p.m., Pacific Time. Otherwise, the patent will be issued to the name(s) on the bidder statement that's completed and submitted on June 17, 2008. No name changes will be accepted after July 17, 2008, 4:30 p.m., Pacific Time. To change the name on the bidder statement, high bidders must notify the Las Vegas Field Office in writing, and submit a new bidder statement, which is available at the Las Vegas Field Office or in the sale brochure, and be completed by the intended patentee(s).

The remainder of the full bid price for each parcel must be paid prior to the expiration of the 180th day following the competitive sale date, which is December 15, 2008, 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 Department of Interior—Bureau of Land Management. Personal checks will not be accepted. Arrangements for electronic fund transfer to BLM for the payment balance due on or before December 15, 2008, shall be made a minimum of two weeks prior to the date you wish to make payment. Failure to pay the full bid price prior to the expiration of the 180th day following the sale date will disqualify the apparent high bidder and cause the entire 20 percent deposit to be forfeited to the BLM. Forfeiture of the 20 percent deposit is by operation of 43 CFR 2711.3–1(d). No exceptions will be made. BLM cannot accept the full bid price after the 180th day of the sale date.

BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Services regulations. BLM is not a party to any 1031 Exchange.

All sales are made in accordance with and subject to the governing provisions of law and applicable regulations.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of a BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

If not sold, any parcels described above in this notice may be identified for sale at a later date without further legal notice. Unsold parcels may be offered for sale in a future Internet auction. Internet auction procedures will be available at *http://www.auctionrp.com.* If unsold on the Internet, parcels may be offered for sale at future oral and Internet auctions without additional legal notice.

Upon publication of this notice and until completion of the sale, the BLM is no longer accepting land use applications affecting the parcels identified for sale. However, land use applications may be considered after completion of the sale for parcels that are not sold.

In order to determine the FWV certain assumptions may have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, state, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or projected use 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 through due diligence 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. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

SNPLMA parcels proposed for sale were analyzed in the ''Las Vegas Land Disposal Boundary Environmental Impact Statement,'' approved December 23, 2004 (EIS), which is available for public review at the Las Vegas Field Office. Ten parcels being offered in this sale were previously analyzed through EAs and approved for sale. Copies of the applicable EAs for N–79534, N–79544 through N–79546, N–79548, N–79550 through N–79551, N–81979, N–81988 and N–84196 are available for review upon request at the Las Vegas Field Office. The remaining five parcels identified in this notice are analyzed in an EA for this sale which tiers to the EIS. Upon publication of this notice, this EA is available for public review and comment at the Las Vegas Field Office. BLM will be accepting public comments on the EA for the five parcels for 45 days after publication in the **Federal Register**.

Information concerning the sale, appraisals, reservations, procedures and conditions, CERCLA and other environmental documents will be available for review at the Las Vegas Field Office, or by calling (702) 515–5000 and asking to speak to a member of the sales team. Most of this information will also be available on the Internet at *https://www.propertydisposal.gsa.gov.*

Only written comments submitted by postal service or overnight mail will be considered properly filed. Electronic mail, facsimile or telephone comments will not be considered as properly filed.

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.

Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR part 2711)

Mark R. Chatterton,

Associate Field Manager.

[FR Doc. E8–4208 Filed 3–4–08; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–633]

In the Matter of Certain Acetic Acid; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 28, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Celanese International Corporation of Dallas, Texas. A supplement was filed on February 19, 2008. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain acetic acid by reason of infringement of certain claims of U.S. Patent No. 6,303,813. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Erin D. E. Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2550.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2007).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 22, 2008, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain acetic acid by reason of infringement of claims 1–4, 6, 9, and 14–17 of U.S. Patent No. 6,303,813, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Celanese International Corporation, 1601 West LBJ Freeway, Dallas, Texas 75234.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Jiangsu Sopo Corporation (Group) Ltd., a/k/a Jiangsu Sopo (Group) Corp., a/k/a Jiangsu Sopo (Group) Co. Ltd., Changgang, Dantu County, Zhenjiang, Jiangsu Province, Shanghai, China 201203.

Jiangsu Sopo Group, Shanghai Limited Company, Room 2005 Hua Xia Bank Tower, No. 256 Pu Dong Road (S), Shanghai, China 200120.

(c) The Commission investigative attorney, party to this investigation, is Erin D. E. Joffre, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401Q, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Carl C. Charneski is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or cease and desist orders or both directed against the respondent.

By order of the Commission.

Issued: February 22, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–4170 Filed 3–4–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on February 26, 2008, a proposed consent decree (''decree'') in *United States and State of Colorado* v. *Home Depot USA, Inc.*, Civil Action No. 1:08–cv–00115 was lodged with the United States District Court for the District of Delaware.

In this action the United States alleged violations of the construction

storm water requirements of the Clean Water Act, its regulations, and applicable permits at numerous Home Depot construction sites in numerous states across the country. The consent decree requires Home Depot to implement a comprehensive, corporate-wide program to prevent storm water pollution at each new store it builds nationwide. Among other things, Home Depot must develop improved storm water pollution prevention plans for each site, perform increased inspections with its construction contractors and promptly correct any problems at its sites, and develop a training program for its construction managers and contractors on the federal storm water requirements. The company is also required to appoint a high-level company official to oversee compliance at all Home Depot construction sites and to implement a management and internal reporting system to improve oversight of on-the-ground operations. Home Depot must also pay a $1.3 million civil penalty, $35,000 of which is to be paid to Colorado.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, 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 and State of Colorado* v. *Home Depot USA, Inc.*, D.J. Ref. 90–5–1–1–08058. The decree may be examined at the Office of the United States Attorney, The Nemours Building, 1007 Orange Street, Suite 700, P.O. Box 2046, Wilmington, DE 19899–2046, and at the U.S. EPA Docket Center, 1301 Constitution Ave., NW, Washington, DC 20460. During the public comment period, the decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $25.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Karen S. Dworkin,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–4125 Filed 3–4–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Non-Electronic Filing of Applications for Permanent and Temporary Foreign Labor Certification

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) announces administrative changes in the locations where future non-electronic applications must be filed under the permanent foreign labor certification program and temporary foreign labor certification programs administered by the ETA's Office of Foreign Labor Certification (OFLC).

DATES: This Notice is effective on June 1, 2008. Beginning June 16, 2008, applications and attestations filed non-electronically with the incorrect National Processing Center or the National OFLC will be returned to the filer for proper submission.

ADDRESSES:

Atlanta NPC: U.S. Department of Labor, Employment and Training Administration, Atlanta National Processing Center, Harris Tower, 233 Peachtree Street, NE., Suite 410, Atlanta, Georgia 30303, telephone: (404) 893–0101, facsimile: (404) 893–4642, help desk e-mail: *plc.atlanta@dol.gov.*

Chicago NPC: U.S. Department of Labor, Employment and Training Administration, Chicago National Processing Center, 844 North Rush Street, 12th Floor, Chicago, Illinois 60611, telephone: (312) 886–8000, facsimile: (312) 353–3352, help desk e-mail: *plc.chicago@dol.gov.*

OFLC National Office: Temporary Programs Manager, Office of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4312, Washington, DC 20210, telephone: (202) 693–3010. The above telephone and facsimile numbers are not toll-free.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, PhD., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4312, Washington, DC 20210, telephone: (202) 693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The OFLC provides national leadership and policy guidance, and develops regulations and administrative procedures to carry out the responsibilities of the Secretary of Labor under the Immigration and Nationality Act (INA) concerning foreign workers seeking admission to the United States in order to work under the labor certification programs authorized by the INA. In December 2004, OFLC opened two National Processing Centers (NPCs), one each located in Atlanta and Chicago, as part of a long-term strategy to streamline, re-engineer, and centralize labor certification processes that historically were fragmented, duplicative, lengthy, and unduly burdensome. These Centers currently process labor certification applications filed by, or on behalf of, employers seeking to employ foreign workers in the U.S. under the permanent labor certification program and temporary nonimmigrant H–2A and H–2B programs, including certain applications which have required special handling. In addition, the National OFLC receives and processes labor certification applications for certain other classes of temporary nonimmigrant programs, such as those for D–1 crewmembers performing longshore work, emergency boilermakers, professional athletes, and H–1C nurses in health professional shortage areas. Employers file many of the forms and applications under such programs with the Department of Labor electronically, but some forms and applications continue to be filed non-electronically.

The purpose of this Notice is to update the filing instructions for labor certification applications in the permanent and temporary labor certification programs, in light of the Department's continuing efforts to make its processing of applications as efficient and effective as is appropriate. Further, this Notice announces the Department's decision to centralize the processing of permanent applications in the Atlanta NPC and the processing of temporary program applications in the Chicago NPC. Labor certification applications filed by, or on behalf of, employers in the following programs will be affected by this Notice:

A. Immigrant Program

• *Permanent Labor Certification Program*

Certain employment-based immigrant programs provide a means for employers to employ foreign nationals to work permanently in the United States. Before filing an immigrant petition with the Department of Homeland Security (DHS) to sponsor a foreign worker for employment in certain employment-based immigrant visa categories, employers must first apply with the Secretary of Labor for a certification that: (1) There are not sufficient U.S. workers who are able, willing, qualified, and available to perform the work and (2) employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers. 8 U.S.C. 1182(a)(5)(A); 20 CFR part 656.

B. Nonimmigrant Programs

• *D–1 Temporary Program*

The D–1 nonimmigrant program provides a means for U.S. employers to import foreign nationals on a temporary basis as crewmembers to perform longshore activities at U.S. ports, including locations in the State of Alaska. Before filing a D–1 petition for nonimmigrant work with the DHS, an employer must first file with the Secretary of Labor an attestation as to certain criteria required of the employer and the job opportunity. 8 U.S.C. 1101(a)(15)(D)(i) and 1288; 20 CFR part 655, subparts F and G.

• *H–1B Temporary Program*

The H–1B nonimmigrant program provides a means for U.S. employers to import foreign nationals on a temporary basis to perform services in a specialty occupation or as a fashion model. Before filing an H–1B petition for a nonimmigrant worker with the DHS, an employer must first file with the Secretary of Labor a labor condition application as to certain criteria required of the employer and the job opportunity. 8 U.S.C. 1101(a)(15)(H)(i)(b) and 1182(n); 20 CFR part 655, subparts H and I.

• *H–1B1 Temporary Program*

The H–1B1 nonimmigrant program provides a means for U.S. employers to import nationals of Chile and Singapore to perform services in a specialty occupation. Before filing an H–1B1 petition for a nonimmigrant worker with DHS, an employer must first file with the Secretary of Labor an attestation as to certain criteria required of the employer and the job opportunity. 8 U.S.C. 1101(a)(15)(H)(i)(b1) and 1182(t); 20 CFR part 655, subparts H and I.

• *E–3 Temporary Program*

The E–3 nonimmigrant program provides a means for U.S. employers to import foreign nationals of Australia to perform services in a specialty occupation. Before filing an E–3 petition for a nonimmigrant worker with DHS, an employer must first file with the Secretary of Labor an attestation as to certain criteria required of the employer and the job opportunity. 8 U.S.C. 1101(a)(15)(E)(iii) and 1182(t); 20 CFR part 655, subparts H and I.

• *H–1C Temporary Program*

The H–1C nonimmigrant program provides a means for certain facilities to import foreign workers on a temporary basis to perform services as registered nurses in health professional shortage areas. Before filing an H–1C petition for a nonimmigrant worker with DHS, an employer must first file with the Secretary of Labor an attestation as to certain criteria required of the facility and the job opportunity. 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); 20 CFR part 655, subparts L and M.

• *H–2A Temporary Labor Certification Program*

The H–2A nonimmigrant program provides a means for U.S. employers to employ foreign workers on a temporary or seasonal basis to perform agricultural labor or services of a temporary or seasonal nature. Before filing an H–2A petition for a nonimmigrant worker with DHS, an employer must first apply with the Secretary of Labor for a certification that: (1) There are not sufficient U.S. workers who are able, willing, qualified, and available to perform the labor or services; and (2) employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers. 8 U.S.C. 1101(a)(15)(H)(ii)(a) and 1188; 20 CFR part 655, subpart B; see also 29 CFR part 501.

• *H–2B Temporary Labor Certification Program*

The H–2B nonimmigrant program provides a means for U.S. employers to employ foreign workers on a temporary basis to perform non-agricultural services or labor, if unemployed U.S. workers are unavailable. Before filing an H–2B petition for nonimmigrant worker with DHS, an employer (other than in Guam) must first apply with the Secretary of Labor or the Governor of Guam for a certification that: (1) U.S. workers capable of performing the temporary labor or services are not available; and (2) employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers. 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184(c)(1); and 20 CFR part 655, subparts A and C; see also 8 CFR 214.2(h)(6).

II. Administrative Changes to Filing Locations

The Department is announcing administrative changes in the locations where future applications must be filed under the permanent labor certification program and certain temporary foreign labor certification programs administered by the OFLC. The Atlanta NPC will receive all applications for permanent labor certification under the Program Electronic Review Management (PERM) System, and the Chicago NPC will receive all applications for temporary labor certification under the programs as identified below. Beginning on the effective date of this Notice, the National OFLC will no longer receive any foreign labor certification applications. Centralizing the filing of labor certification applications and specializing each NPC will increase operational efficiencies in each program, improve customer service that reduces confusion with respect to where permanent and temporary labor certification applications should be filed, enhance efforts to combat fraud and abuse within and across each program, and promote greater consistency and uniformity in the adjudication of labor certification applications.

For the first 15 calendar days after the effective date of this Notice, applications and attestations filed with the incorrect NPC or OFLC National Office will be forwarded to the correct NPC. However, beginning Monday, June 16, 2008, applications and attestations filed with the incorrect NPC or OFLC National Office will be returned to the filer for proper filing.

A. Application Filings With the Atlanta NPC

Permanent Labor Certification Program

General: The Department strongly encourages employers to file PERM applications using the Permanent Online System at *http://www.plc.doleta.gov*. Effective June 1, 2008, employers who do not wish to file online must mail their PERM applications directly to the Atlanta NPC.

Professional Athletes: There are special procedures for the permanent employment of immigrant professional athletes. Effective June 1, 2008, employers must file PERM applications under the special procedures for professional athletes directly with the Atlanta NPC.

B. Application Filings With the Chicago NPC

1. D–1 Temporary Program

General: Effective June 1, 2008, employers must file Attestations for D–1 Nonimmigrant Crewmembers performing longshore activities directly with the Chicago NPC.

2. H–1B, H–1B1, and E–3 Temporary Nonimmigrant Programs

General: Except as authorized below, employers must continue to file H–1B, H–1B1, and E–3 Labor Condition Applications (LCAs) using the LCA Online System at *http://www.lca.doleta.gov*. Effective June 1, 2008, employers with physical disabilities authorized by the OFLC National Office to file LCAs using U.S. mail must file directly with the Chicago NPC.

3. H–1C Temporary Program

General: Effective June 1, 2008, employers must file Attestations for H–1C Nonimmigrant Nurses directly with the Chicago NPC.

4. H–2A Temporary Labor Certification Program

General: Effective June 1, 2008, employers must file applications for H–2A temporary labor certification concurrently with the Chicago NPC and the State Workforce Agency (SWA) serving the area of intended employment. If a fixed-site employer has one or more worksites in the same area of intended employment, and the area of intended employment lies in the jurisdiction of more than one SWA, the employer must file a single application concurrently with the Chicago NPC and the SWA in the State where the work will begin.

5. H–2B Temporary Labor Certification Program

General: Employers must continue to file applications for H–2B temporary labor certification (including those filed for tree planting and related reforestation activities) with the SWA serving the area of intended employment. If an employer has one or more worksites in the same area of intended employment (i.e., Metropolitan Statistical Area), and the area of intended employment lies in the jurisdiction of more than one SWA, the employer may file a single application with the SWA in the State where the work will begin. However, for all applications filed with the SWA on or after June 1, 2008, the SWA must send completed applications to the Chicago NPC.

i. *Logging:* Employers must continue to file applications with their respective SWAs for temporary labor certification for the logging industry, i.e., Maine, New Hampshire, New York, or Vermont SWA. However, for all applications filed with the SWA on or after June 1, 2008, the SWA must send the completed applications directly to the Chicago NPC.

ii. *Entertainers:* Employers must continue to file applications for H–2B temporary labor certification with the SWA Offices Specializing in Entertainment (OSEs) in Austin, New York, or Sacramento. After processing, the SWA OSE must continue to send all completed applications to the Chicago NPC.

iii. *Emergency boilermaker applications and professional athletes:* Effective June 1, 2008, employers must file applications for H–2B temporary labor certification for emergency boilermakers and professional athletes directly with the Chicago NPC.

III. Administrative Changes in Requesting Withdrawals

Beginning June 1, 2008, all requests for withdrawals of PERM applications must be submitted to the Atlanta NPC. All requests for withdrawals of LCAs, labor certifications for H–2A or H–2B, or H–1C attestations that cannot be made electronically must be submitted to the Chicago NPC.

Authority: Employment and Training Order No. 2–05, June 22, 2005; 70 FR 39386 (July 7, 2005).

Signed in Washington, DC, this 25th day of February, 2008.

Douglas F. Small,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. E8–4119 Filed 3–4–08; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Veterans' Employment & Training Service

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Veterans' Employment & Training Service is soliciting comments concerning the proposed collection: Veteran Employment Services Survey. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before Friday, April 4, 2008.

ADDRESSES: Ms. Ruth M. Samardick, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–1325, Washington, DC 20210, telephone (202) 693–4706, fax (202) 693–4754, e-mail *samardick.ruth@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this information collection is to learn more about veteran users of One-Stop Career Centers who do not appear to have had successful employment outcomes. The survey data collected will help determine to what extent the apparent lack of successful outcomes for veteran job seekers, as measured by the participating state's reported entered employment rate (EER), corresponds to an actual lack of success or to measurement methods. If current measurement methods are inaccurate, the collection will provide information about the nature of the problem. The survey results will be used to estimate the size of the measurement gap—the difference between the reported EER and the true EER. In estimating the true EER, we will estimate the number and percentage of veterans who are unsuccessful finding jobs.

Further, this collection will allow DOL to learn key characteristics and reasons why some veterans have difficulty or fail to find jobs, learn what services were received and what veterans thought of them, and learn what services were not received and whether they were needed.

II. Review Focus

The Department of Labor is particularly interested in comments which: Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; enhance the quality, utility and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks a new approval of this information collection in order to learn more about veteran users of One-Stop Career Centers who do not appear to have had successful employment outcomes.

Type of Review: New.

Agency: Veterans' Employment & Training Service.

Title: Veteran Employment Services.

OMB Number: N/A.

Agency Number: CA–1032.

Affected Public: Individuals or households.

Total Respondents: 1,068.

Total Annual Responses: 1,068.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 267.

Frequency: One Time.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): Contractor cost of $299,955.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed in Washington, DC, this 27th day of February 2008.

John M. McWilliam,

Deputy Assistant Secretary, Veterans Employment and Training.

[FR Doc. E8–4091 Filed 3–4–08; 8:45 am]

BILLING CODE 4510–79–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293–LR;] [ASLBP No. 06–848–02–LR]

Atomic Safety and Licensing Board; Before Administrative Judges: Ann Marshall Young, Chair, Dr. Paul B. Abramson, Dr. Richard F. Cole, In the Matter of: Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station); Notice of Hearing and of Opportunity To Make Limited Appearance Statements

February 27, 2008.

This proceeding involves Entergy Nuclear Operations, Inc.'s Application to renew its operating license for the Pilgrim Nuclear Power Station for an additional 20-year period, and Intervenor Pilgrim Watch's challenge of certain aspects of the Application.[1] This Atomic Safety and Licensing Board hereby gives notice that the oral hearing in the proceeding will be held on Thursday, April 10, 2008. The hearing will commence at 9 a.m., at the Radisson Hotel, 180 Water Street in Plymouth, Massachusetts.

In addition, the Board further hereby gives notice that, in accordance with 10 CFR. 2.315(a), it will entertain oral limited appearance statements from members of the public in connection with this proceeding on the evening of April 9, 2008, as specified below.

Limited Appearance Statement Session

a. Date, Time, and Location of Oral Limited Appearance Statement Session

The session will be held on the following date at the specified location and time:

Date: April 9, 2008.

Time: 6:30–8:30 p.m. EDT.

Location: Radisson Hotel, 180 Water Street, Plymouth, Massachusetts 02360.

b. Participation Guidelines for Oral Limited Appearance Statements

Members of the public will be permitted in this session to make short oral statements of five (5) minutes or less on their positions on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence in the proceeding, they nonetheless may assist the Board and/or the parties in their consideration of the issues.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as necessary to accommodate all speakers who are present.[2] If all scheduled and unscheduled speakers present at the session have spoken prior to the scheduled time to end the session, the Board may conclude the session before that time. In addition, if there is an unusually large group of persons wishing to speak, the time permitted for each speaker may be limited to a period of less than five (5) minutes, in order to allow all interested persons an opportunity to speak.

c. Submitting a Request to Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request as specified below and who are present when their names are called will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by 5 p.m. EDT on Friday, April 4, 2008.

Written requests to make an oral statement should be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–1101 (verification (301) 415–1966).

E-mail: hearingdocket@nrc.gov.

In addition, using the same method of service, a copy of the written request to make an oral statement must be sent to the Chair of this Licensing Board as follows:

Mail: Administrative Judge Ann Marshall Young, c/o: Johanna Thibault, Esq., Law Clerk, Atomic Safety and Licensing Board Panel, Mail Stop T–3 A2A, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599 (verification (301) 415–6094).

E-mail: Johanna.Thibault@nrc.gov.

d. Submitted Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board regarding this proceeding at any time, either in lieu of or in addition to

[1] The Town of Plymouth, Massachusetts, where the Pilgrim plant is located, is also participating in this proceeding as an interested local governmental body, pursuant to 10 CFR 2.315(c).

[2] Members of the public who plan to attend the limited appearance session are advised that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases, backpacks, packages, etc. In addition, although signs no larger than 18'' by 18'' will be permitted, they may not be waved, attached to sticks, held up, or moved about in the room. See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001).

any oral statement. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Licensing Board Chair.

Dated: February 27, 2008, at Rockville, Maryland.

For the Atomic Safety and Licensing Board.

Ann Marshall Young,

Chair, Administrative Judge.

[FR Doc. E8–4226 Filed 3–4–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17d–1; SEC File No. 270–505; OMB Control No. 3235–0562.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Section 17(d) (15 U.S.C. 80a–17(d)) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) (the ''Act'') prohibits first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of the Commission's rules. Rule 17d–1 (17 CFR 270.17d–1) prohibits an affiliated person of or principal underwriter for any fund (a ''first-tier affiliate''), or any affiliated person of such person or underwriter (a ''second-tier affiliate''), acting as principal, from participating in or effecting any transaction in connection with a joint enterprise or other joint arrangement in which the fund is a participant, unless prior to entering into the enterprise or arrangement ''an application regarding (the transaction) has been filed with the Commission and has been granted by an order.'' In reviewing the proposed affiliated transaction, the rule provides that the Commission will consider whether the proposal is (i) consistent with the provisions, policies, and purposes of the Act, and (ii) on a basis different from or less advantageous than that of other participants in determining whether to grant an exemptive application for a proposed joint enterprise, joint arrangement, or profit-sharing plan.

Rule 17d–1 also contains a number of exceptions to the requirement that a fund must obtain Commission approval prior to entering into joint transactions or arrangements with affiliates. For example, funds do not have to obtain Commission approval for certain employee compensation plans, certain tax-deferred employee benefit plans, certain transactions involving small business investment companies, the receipt of securities or cash by certain affiliates pursuant to a plan of reorganization, and arrangements regarding liability insurance policies. The Commission amended rule 17d–1 most recently in 2003 to expand the current exemptions from the Commission approval process to permit funds to engage in transactions with ''portfolio affiliates''—companies that are affiliated with the fund solely as a result of the fund (or an affiliated fund) controlling them or owning more than five percent of their voting securities. This amendment was designed to permit funds' transactions with portfolio affiliates without seeking Commission approval, as long as certain other affiliated persons of the fund (*e.g.*, the fund's adviser, persons controlling the fund, and persons under common control with the fund) (''prohibited participants'') are not parties to the transaction and do not have a ''financial interest'' in a party to the transaction. The rule excludes from the definition of ''financial interest'' any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material, as long as the board records the basis for its finding in their meeting minutes.

Thus, the rule contains two filing and recordkeeping requirements that constitute collections of information. First, rule 17d–1 requires funds that wish to engage in a joint transaction or arrangement with affiliates to meet the procedural requirements for obtaining exemptive relief from the rule's prohibition on joint transactions or arrangements involving first- or second-tier affiliates. Second, rule 17d–1 permits a portfolio affiliate to enter into a joint transaction or arrangement with the fund if a prohibited participant has a financial interest that the fund's board determines is not material and records the basis for this finding in their meeting minutes. These requirements of rule 17d–1 are designed to prevent fund insiders from managing funds for their own benefit, rather than for the benefit of the funds' shareholders.

Based on an analysis of past filings, Commission staff estimates that 4 funds file applications under section 17(d) and rule 17d–1 per year. Based on a limited survey of persons in the mutual fund industry, the Commission staff estimates that each applicant will spend an average of 154 hours to comply with the Commission's applications process. The Commission staff therefore estimates the annual burden hours per year for all funds under rule 17d–1's application process to be 616 hours.

Based on analysis of past filings, the Commission's staff estimates that 148 funds are affiliated persons of 668 issuers as a result of the fund's ownership or control of the issuer's voting securities, and that there are approximately 1,000 such affiliate relationships. Staff discussions with mutual fund representatives have suggested that no funds are currently relying on rule 17d–1 exemptions. We do not know definitively the reasons for this transactional behavior, but differing market conditions from year to year may offer some explanation for the current lack of fund interest in the exemptions under rule 17d–1. Accordingly, we estimate that annually there will be no joint transactions under rule 17d–1 that will result in a collection of information. The Commission, therefore, requests authorization to maintain an inventory of total burden hours per year for all funds under rule 17d–1 of 616 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with these collections of information requirement is necessary to obtain the benefit of relying on rule 17d–1. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: February 27, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4206 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 18f–1 and Form N–18f–1; SEC File No. 270–187; OMB Control No. 3235–0211.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 18f–1 (17 CFR 270.18f–1) enables a registered open-end management investment company (''fund'') that may redeem its securities in-kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–18(f)). A fund relying on the rule must file Form N–18F–1 (17 CFR 274.51) to notify the Commission of this election. The Commission staff estimates that approximately 39 funds file Form N–18F–1 annually, and that each response takes approximately one hour. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 39 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: February 27, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4207 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28176; 812–13348]

Patriot Capital Funding, Inc.; Notice of Application

February 28, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 23(a), 23(b) and 63 of the Act, and under sections 57(a)(4) and 57(i) of the Act and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

SUMMARY OF THE APPLICATION: Patriot Capital Funding, Inc. (''Applicant'') requests an order to permit Applicant to issue restricted shares of its common stock under the terms of its employee compensation plan.

FILING DATES: The application was filed on November 29, 2006, and amended on February 15, 2008. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in the notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 24, 2008, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicant, c/o Richard P. Buckanavage, President and Chief Executive Officer, Patriot Capital Funding, Inc., 274 Riverside Avenue, Westport, CT 06880.

FOR FURTHER INFORMATION CONTACT: Shannon Conaty, Senior Counsel, at (202) 551–6827, or Janet M. Grossnickle, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549–1520 (tel. 202–551–5850).

Applicant's Representations

1. Applicant, a Delaware corporation, is an internally managed, non-diversified, closed-end investment company that has elected to be regulated as a business development company (''BDC'') under the Act.[1]

[1] Applicant was organized on November 4, 2002. When Applicant commenced business operations in 2003, its business was conducted through two separate entities, Patriot Capital Funding, Inc. and Wilton Funding, LLC. On July 27, 2005, Wilton Funding, LLC merged with and into Patriot Capital Funding, Inc. and the surviving entity, Applicant, elected to be regulated as a BDC. Section 2(a)(48)

Continued

Applicant is a specialty finance company that provides customized financing solutions to small- and medium-sized companies. Applicant's investments are primarily senior secured commercial loans, subordinated debt instruments and junior secured term loans. Shares of Applicant's common stock are traded on The NASDAQ Stock Market, Inc. Global Select Market under the symbol ''PCAP.'' As of December 31, 2007, there were 20,650,455 shares of Applicant's common stock issued and outstanding. As of that date, Applicant had 14 employees, including the employees of its one wholly-owned consolidated subsidiary, Patriot Capital Funding LLC I.

2. Applicant currently has a six-member board of directors (the ''Board'') of whom two are ''interested persons'' of Applicant within the meaning of section 2(a)(19) of the Act and four are not interested persons (the ''non-interested directors''). The four non-interested directors are neither employees nor officers of Applicant (the ''non-employee directors'').

3. Applicant currently intends, upon receipt of the order, to discontinue its stock option plan and offer all employees holding outstanding options the opportunity to cancel those options in exchange for shares of restricted stock (*i.e.*, stock that, at the time of issuance, is subject to certain forfeiture restrictions, and thus is restricted as to its transferability until such forfeiture restrictions have lapsed) (the ''Restricted Stock''). Conversion of options into shares of Restricted Stock will not be mandatory and each employee will have the ability to choose to cancel and convert or to keep his or her outstanding options. As of December 31, 2007, total outstanding stock options represent 11.8% of Applicant's total outstanding shares of common stock.[2] The number of shares of Restricted Stock that will be issued in connection with this cancellation and conversion is intended to replicate the value of interests the individual has in the stock option plan and such valuation will be based on assumptions approved by the Board and an appropriate option pricing model (*e.g.*, Black Scholes), which will be selected by the Board.[3]

4. Applicant believes that its successful operation depends on its ability to offer compensation packages to its professionals that are competitive with those offered by its competitors and other investment management businesses. Applicant believes its ability to offer a compensation plan providing for the periodic issuance of shares of Restricted Stock is vital to its future growth and success. Applicant wishes to adopt an equity-based compensation plan (the ''Plan'') for its employees as well as employees of its wholly-owned subsidiaries (the ''Participants'').

5. The Plan will authorize the issuance of shares of Restricted Stock subject to certain forfeiture restrictions. These restrictions may relate to continued employment (lapsing either on an annual or other periodic basis or on a ''cliff'' basis, *i.e.*, at the end of a stated period of time), the performance of Applicant, or other restrictions deemed by the Board to be appropriate. The Restricted Stock will be subject to restrictions on transferability and other restrictions as required by the Board. The Restricted Stock will not be transferable except for disposition by gift, will or intestacy. Except to the extent restricted under the terms of the Plan, a Participant granted Restricted Stock will have all the rights of any other shareholder, including the right to vote the Restricted Stock and the right to receive dividends. During the restriction period, the Restricted Stock generally may not be sold, transferred, pledged, hypothecated, margined, or otherwise encumbered by the Participant. Except as the Board otherwise determines, upon termination of a Participant's employment during the applicable restriction period, Restricted Stock for which forfeiture restrictions have not lapsed at the time of such termination shall be forfeited.

6. The maximum amount of Restricted Stock that may be issued under the Plan will be 10% of the outstanding shares of common stock of Applicant on the effective date of the Plan plus 10% of the number of shares of Applicant's common stock issued or delivered by Applicant (other than pursuant to compensation plans) during the term of the Plan.[4] The Plan limits the total number of shares that may be awarded to any single Participant in a single year to 300,000 shares. In addition, no Participant may be granted more than 25% of the shares reserved for issuance under the Plan. Upon the recommendation of the compensation committee of the Board (the ''Committee'') which is comprised solely of non-interested directors, the Board will award shares of Restricted Stock to the Participants from time to time as part of the Participants' compensation based on a Participant's actual or expected performance and value to Applicant.

7. Each issuance of Restricted Stock under the Plan will be approved by the required majority, as defined in section 57(o) of the Act,[5] of Applicant's directors on the basis that the issuance is in the best interests of Applicant and its shareholders. The date on which the required majority approves an issuance of Restricted Stock will be deemed the date on which the subject Restricted Stock is granted. The Plan will be submitted for approval to Applicant's shareholders and will become effective upon such approval, subject to issuance of the order.

Applicant's Legal Analysis

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Stock as a part of the Plan.

2. Section 23(b) generally prohibits a closed-end management investment company from selling its common stock at a price below its current net asset value (''NAV''). Section 63(2) makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Stock that would be granted under the Plan would not meet the terms of section 63(2), sections 23(b)

defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities. On August 2, 2005, Applicant completed its initial public offering.

[2] As a result of allowing each individual employee to make the choice whether to convert his or her options, Applicant anticipates that options will remain outstanding once the cancellation and conversion are completed.

[3] The opportunity to convert options into shares of Restricted Stock will be offered to employees through a tender offer process and employees will be provided with the disclosure that is required by Schedule TO under the Securities Exchange Act of 1934 (the ''Exchange Act''). The same pricing model will be used for all of Applicant's employees and officers.

[4] For purposes of calculating compliance with this limit, Applicant will count as Restricted Stock all shares of Applicant's common stock that are issued pursuant to the Plan (including any shares issued in connection with the termination of its stock option plan) less any shares that are forfeited back to Applicant and cancelled as a result of forfeiture restrictions not lapsing.

[5] The term ''required majority,'' when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a BDC's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

and 63 would prevent the issuance of the Restricted Stock.

3. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a) and (b) and section 63 of the Act. Applicant states that the concerns underlying those sections include: (i) preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (ii) complication of the investment company's structure that makes it difficult to determine the value of the company's shares; and (iii) dilution of shareholders' equity in the investment company. Applicant states that the Plan does not raise the concern about preferential treatment of Applicant's insiders because the Plan is a bona fide employee compensation plan of the type that is common among corporations generally. In addition, section 61(a)(3) of the Act permits a BDC to issue to its officers, directors and employees, pursuant to an executive compensation plan, warrants, options and rights to purchase the BDC's voting securities, subject to certain requirements. Applicant states that, for reasons that are unclear, section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. Applicant states, however, that the issuance of Restricted Stock is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. Applicant also asserts that the Plan would not become a means for insiders to obtain control of Applicant because the number of shares of Applicant issuable under the Plan would be limited as set forth in the application. Moreover, no individual Participant could be issued more than 25% of the shares reserved for issuance under the Plan. Applicant's current intention, subject to the receipt of the order, is to discontinue its stock option plan and offer all employees holding outstanding options the opportunity to cancel those options in exchange for shares of Restricted Stock. If, however, Applicant chooses to reinstate the stock option plan (or adopt another such plan) and issues stock options in the future, it will do so pursuant to section 61 and in compliance with the terms and conditions of the application.

5. Applicant further states that the Plan will not unduly complicate Applicant's structure because equity-based employee compensation arrangements are widely used among corporations and commonly known to investors. Applicant notes that the Plan will be submitted to Applicant's shareholders for their approval. Applicant represents that a concise, ''plain English'' description of the Plan, including its potential dilutive effect, will be provided in the proxy materials that will be submitted to Applicant's shareholders. Applicant also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Exchange Act. Applicant further notes that the Plan will be disclosed to investors in accordance with the requirements of the Form N–2 registration statement for closed-end investment companies, and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. In addition, Applicant will comply with the disclosure requirements for executive compensation plans under the Exchange Act.[6] Applicant thus concludes that the Plan will be adequately disclosed to investors and appropriately reflected in the market value of Applicant's shares.

6. Applicant acknowledges that, while awards granted under the Plan would have a dilutive effect on the shareholders' equity in Applicant, that effect would be outweighed by the anticipated benefits of the Plan to Applicant and its shareholders. Applicant asserts that it needs the flexibility to provide the requested equity-based employee compensation in order to be able to compete effectively with other financial services firms for talented professionals. These professionals, Applicant suggests, in turn are likely to increase Applicant's performance and shareholder value. Applicant also asserts that equity-based compensation would more closely align the interests of Applicant's employees with those of Applicant's shareholders. In addition, Applicant states that Applicant's shareholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Plan by Applicant's Board.

Section 57(a)(4), Rule 17d–1

7. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) (''57(b) persons''), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule 17d–1, made applicable to BDCs by section 57(i), proscribes participation in a ''joint enterprise or other joint arrangement or profit-sharing plan,'' which includes a stock option or purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of shares of Restricted Stock could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d–1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (i) whether the participation of the company in a joint enterprise is consistent with the Act's policies and purposes and (ii) the extent to which that participation is on a basis different from or less advantageous than that of other participants.

8. Applicant requests an order pursuant to section 57(a)(4) and rule 17d–1 to permit the Plan. Applicant states that the Plan, although benefiting the Participants and Applicant in different ways, are in the interests of Applicant's shareholders because the Plan will help Applicant attract and retain talented professionals, help align the interests of Applicant's employees with those of its shareholders, and in turn help produce a better return to Applicant's shareholders.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. The Plan will be approved by Applicant's shareholders in accordance with section 61(a)(3)(A)(iv) of the Act.

2. Each issuance of Restricted Stock to officers and employees will be approved by the required majority, as defined in section 57(o) of the Act, of Applicant's directors on the basis that such issuance

[6] Applicant will comply with the amendments to the disclosure requirements for executive and director compensation, related party transactions, director independence and other corporate governance matters, and security ownership of officers and directors to the extent adopted and applicable to BDCs. *See* Executive Compensation and Related Party Disclosure, Securities Act Release No. 8655 (Jan. 27, 2006) (proposed rule); Executive Compensation and Related Party Disclosure, Securities Act Release No. 8732A (Aug. 29, 2006) (final rule and proposed rule), as amended by Executive Compensation Disclosure, Securities Act Release No. 8765 (Dec. 22, 2006) (adopted as interim final rules with request for comments).

is in the best interests of Applicant and its shareholders.

3. The amount of voting securities that would result from the exercise of all of Applicant's outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plan, at the time of issuance shall not exceed 25% of the outstanding voting securities of Applicant, except that if the amount of voting securities that would result from the exercise of all of Applicant's outstanding warrants, options, and rights issued to Applicant's directors, officers, and employees, together with any Restricted Stock issued pursuant to the Plan, would exceed 15% of the outstanding voting securities of Applicant, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Plan, at the time of issuance shall not exceed 20% of the outstanding voting securities of Applicant.

4. The maximum amount of Restricted Stock that may be issued under the Plan will be 10% of the outstanding shares of common stock of Applicant on the effective date of the Plan plus 10% of the number of shares of Applicant's common stock issued or delivered by Applicant (other than pursuant to compensation plans) during the term of the Plan.

5. The Board will review periodically the potential impact that the issuance of Restricted Stock under the Plan could have on Applicant's earnings and NAV per share, such review to take place prior to any decisions to grant Restricted Stock under the Plan, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Plan would not have an effect contrary to the interests of Applicant's shareholders. This authority will include the authority to prevent or limit the granting of additional Restricted Stock under the Plan. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4178 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [73 FR 10828, February 28, 2008].

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: March 3, 2008 at 2 p.m.

CHANGE IN THE MEETING: Additional Item.

The following matter will also be considered during the 2 p.m. Closed Meeting scheduled for Monday, March 3, 2008:

An adjudicatory matter.

Commissioner Casey, as duty officer, determined that no earlier notice thereof was possible.

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: February 29, 2008.

Nancy M. Morris,

Secretary.

[FR Doc. E8–4228 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57393; File No. SR–Amex–2007–79]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change as Modified by Amendments No. 1, 2, and 3 Relating to Independent Directors and Audit Committee Members

February 27, 2008.

On September 18, 2007, the American Stock Exchange LLC (''Amex'' 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 relating to independent directors and audit committee members. On November 8, 2007 and November 16, 2007, Amex submitted Amendments No. 1 and 2, respectively, to the proposed rule change. The proposed rule change as modified by Amendments No. 1 and 2 was published for comment in the **Federal Register** on December 27, 2007.[3] The Commission received no comments on the proposal. On February 14, 2008, Amex submitted Amendment No. 3 to the proposed rule change.[4]

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 and, in particular, the requirements of Section 6(b)(5) of the Act,[5] because it allows an issuer a reasonable period of time (''cure period'') to fill a vacancy on its audit committee when the number of members on such committee has fallen below the minimum required by the Exchange's rules; and to restore the proportion of independent directors on its board to the level required by the Exchange's rules in a situation when a vacancy arises or an independent director ceases to be independent due to circumstances beyond his or her reasonable control.[6]

The Commission notes that the cure period established by the proposed rule change for issuers generally is consistent with the period provided in the rule of another exchange previously approved by the Commission.[7] Further, the Commission believes that the proposal appropriately adjusts the cure period for Small Business Issuers (as defined in Amex's rules) in view of the

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56982 (December 18, 2007), 72 FR 73386 (December 27, 2007).

[4] Amendment No. 3 was a technical amendment not subject to notice and comment.

[5] 15 U.S.C. 78f(b)(5).

[6] The Commission notes that the proposed rule change does not affect the cure period afforded to an issuer for purposes of compliance with the Exchange's independence standards for audit committee members, including those required by Rule 10A–3 under the Act, 17 CFR 240.10A–3. The proposal rather relates to situations in which a vacancy arises on an issuer's audit committee, as, for example, in a case where a resignation or death causes the number of independent directors on the committee to fall below the minimum required by Amex's rules (two in the case of Small Business Issuers as defined in the Amex's rules and three for all other issuers). The proposal further relates to situations in which a vacancy arises on an issuer's board or an independent director on an issuer's board ceases to be independent due to circumstances beyond his or her reasonable control such that the issuer no longer meets the Amex standard requiring that a majority of directors on an issuer's board be independent (or 50% of the directors, in the case of Small Business Issuers).

[7] *See* NASDAQ Manual, Rule 4350(c) and (d). *See* Securities Exchange Act Release No. 54421 (September 11, 2006), 71 FR 54698 (September 18, 2006).

modified standards that Amex imposes on such issuers.[8]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex–2007–79), as amended, be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4176 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57388; File No. SR–FINRA–2007–039]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto To Establish an Exemption for Certain Regulation NMS-Compliant Intermarket Sweep Orders From the Requirements in IM–2110–2 (Trading Ahead of Customer Limit Order) and Rule 2111 (Trading Ahead of Customer Market Orders)

February 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by FINRA. On February 11, 2008, FINRA filed Amendment No. 1 to make certain clarifying changes to the description of the purpose of the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend NASD Interpretive Material (IM) 2110–2 (Trading Ahead of Customer Limit Order) and NASD Rule 2111 (Trading Ahead of Customer Market Orders) to establish an exemption for certain proprietary trades that are a result of intermarket sweep orders (''ISOs''). The text of the proposed rule change is available at *http://www.finra.org,* the principal offices of FINRA, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

IM–2110–2 (also referred to as the ''Manning Rule'') generally prohibits a member from trading for its own account in an exchange-listed security at a price that is equal to or better than an unexecuted customer limit order in that security, unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or better.[3] The legal underpinnings for the Manning Rule are a member's basic fiduciary obligations and the requirement that a member must, in the conduct of its business, ''observe high standards of commercial honor and just and equitable principles of trade.''[4] The same principles on which the Manning Rule is based apply to the treatment of customer market orders pursuant to Rule 2111, which generally prohibits a member that accepts and holds a customer market order from trading for its own account at prices that would satisfy the customer market order, unless the firm immediately thereafter executes the customer market order. The NYSE has similar customer order protections in NYSE Rule 92 (Limitations on Members' Trading Because of Customers' Orders), which generally prohibits members or member organizations from entering proprietary orders ahead of, or along with, customer orders that are executable at the same price as the proprietary order.[5]

On July 5, 2007, the SEC approved amendments to NYSE Rule 92 that, among other things, added an exemption relating to ISOs.[6] Specifically, as amended, NYSE Rule 92 provides that when routing ISOs, the member organization is required to yield its principal executions to those open customer orders that are required to be protected by NYSE Rule 92 and capable of accepting the fill.[7] In addition, if a firm executes an ISO to facilitate a customer order at a price that is inferior to one or more protected quotations, that customer must consent to not receiving the better price obtained by the ISO(s) or the firm must yield its principal execution to that customer.

FINRA is proposing to establish a similar exemption from the requirements in IM–2110–2 and Rule 2111 for certain Regulation NMS-compliant ISOs. Specifically, FINRA is proposing to amend IM–2110–2 and Rule 2111 to provide an exemption relating to trading for a member's own account that is the result of an ISO routed in compliance with Rules

[8] The Commission notes that on January 25, 2008, Amex submitted File Number SR–Amex–2008–05 to further amend Amex corporate governance listing standards to conform to recent Commission amendments and forms relating to smaller reporting companies.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The SEC approved changes to IM–2110–2 that, among other things, expand the scope to OTC equity securities. *See* Securities Exchange Act Release No. 55351 (February 26, 2007), 72 FR 9810 (March 5, 2007) (SR–NASD–2005–146). *See also* NASD *Notice to Members* 07–19 (April 2007). *See also* Securities Exchange Act Release Nos. 57133 (January 11, 2008), 73 FR 3500 (January 18, 2008) (SR–FINRA–2007–038); 56822 (November 20, 2007), 72 FR 67326 (November 28, 2007) (SR–FINRA–2007–023); 56297 (August 21, 2007), 72 FR 49337 (August 28, 2007) (SR–NASD–2007–041); 56103 (July 19, 2007), 72 FR 40918 (July 25, 2007) (SR–NASD–2007–039).

[4] *See* NASD Rule 2110.

[5] NYSE Rule 92 applies to customer orders and does not distinguish between customer limit orders and customer market orders.

[6] *See* Securities Exchange Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007) (SR–NYSE–2007–21).

[7] Pursuant to NYSE Rule 92, customer orders that are required to be protected are those open customer orders that are known to the member organization before the entry of the ISO. *See* NYSE Information Memo 07–68 (July 6, 2007).

600(b)(30)(ii)[8] and 611(b)(6)[9] of Regulation NMS where the customer order is received after the member routed the ISO. Additionally, the proposed amendments to IM–2110–2 and Rule 2111 would provide an exemption relating to trading for a member's own account that is the result of an ISO where the member executes the ISO to facilitate a customer order and that customer has consented to not receiving the better prices obtained by the ISO.

FINRA believes the proposed rule change appropriately balances important limit and market order protection requirements while facilitating member compliance with Rule 611 of Regulation NMS, and will more closely align IM–2110–2 and Rule 2111 with NYSE Rule 92. FINRA understands that the turnaround time from when an ISO is sent out and the response time to the sender is extremely short. Given this short time period, FINRA believes that the proposed exemption is appropriate. FINRA also believes that the proposed rule change will facilitate and clarify the ISO process for members. The proposed rule change will be effective upon the Commission's approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will facilitate members' compliance with their ISO routing obligations under Rule 611 of Regulation NMS and provide an exemption from IM–2110–2 and Rule 2111, substantially consistent with the changes in SR–NYSE–2007–21.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Nasdaq 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.

FINRA has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2007–039 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–FINRA–2007–039. 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 publicly available. All submissions should refer to File Number SR–FINRA–2007–039 and should be submitted on or before March 20, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4173 Filed 3–4–08; 8:45 am]

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[8] The term ''intermarket sweep order'' is defined in Rule 600(b)(30) of Regulation NMS as a limit order for an NMS stock that meets the following requirements: (i) When routed to a trading center, the limit order is identified as an intermarket sweep order; and (ii) simultaneously with the routing of the limit order identified as an intermarket sweep order, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order identified as an intermarket sweep order. These additional routed orders also must be marked as intermarket sweep orders. *See* 17 CFR 242.600(b)(30).

[9] Rule 611(b)(6) of Regulation NMS provides an exception for a trade-through transaction effected by a trading center that simultaneously routes an ISO to execute against the full displayed size of any protected quotation in the NMS stock that was traded through. *See* 17 CFR 242.611(b)(6).

[10] 15 U.S.C. 78o–3(b)(6).

[11] *See* Securities Exchange Release No. 56017 (July 5, 2007), 72 FR 38110 (July 12, 2007).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57387; File No. SR–ISE–2007–99]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Allow for the Listing and Trading of Index-Linked Exchangeable Notes

February 27, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 12, 2007, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On February 26, 2008, the Exchange filed Amendment No. 1 to the proposed rule change.[3] This order provides notice of the proposed rule change, as amended, and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to provide for the listing and trading of index-linked exchangeable notes. The text of the proposed rule change is available at the Exchange's principal office, on the Exchange's Web site (*http://www.ise.com*), and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes rules that would allow it to list and trade, or trade pursuant to UTP, index-linked exchangeable notes. Index-linked exchangeable notes allow investors to hold a single, exchange-listed note exchangeable for the cash value of the underlying stocks (''Underlying Stocks'') of an index (''Underlying Index,'' ''Index,'' ''Underlying Indices,'' or ''Indices''), and thereby acquire—in a single security and single trade—exposure to a specific index of equity securities.

Each Underlying Index or Underlying Stock (as applicable) must be:

• An index that has been created by a third party and: (1) Has been described in an exchange rule for the trading of options, Portfolio Depositary Receipts, Investment Company Units, index-linked exchangeable notes, or index-linked securities which has been approved by the Commission under section 19(b)(2) of the Act,[4] and the standards set forth in the Commission approval order are satisfied; or (2) is an index that meets the requirements of the exchange rules adopted pursuant to Rule 19b–4(e) under the Act[5] (each, a ''Third-Party Index''); or

• An index that has been created by the issuer and: (1) Has been described in an exchange rule for the trading of options, Portfolio Depositary Receipts, Investment Company Units, index-linked exchangeable notes, or index-linked securities that has been approved by the Commission pursuant to section 19(b)(2) of the Act, and the standards set forth in the Commission approval order are satisfied; or (2) is an index which meets the requirements of the exchange rules adopted pursuant to Rule 19b–4(e) of the Act (each, an ''Issuer Index'').

• Each issuer of an Underlying Stock shall be a reporting company under the Act that is listed on a national securities exchange and is subject to last-sale reporting; and

• An Issuer Index will meet the procedures and criteria in ISE Rule 2002(d)[6] or the criteria set forth in proposed Rule 2133(d)(ii) and the index concentration limits in Rule 2002(d).

a. Description of Index-Linked Exchangeable Notes

Index-linked exchangeable notes are debt securities that are exchangeable at the option of the holder (subject to the requirement that the holder in most circumstances exchange a specified minimum amount of notes), on call by the issuer, or at maturity for a cash amount (the ''Cash Value Amount'') based on the reported market prices of the Underlying Stocks of an Underlying Index. Each index-linked exchangeable note is intended to provide investors with an instrument that closely tracks the Underlying Index. Despite being linked to an Index, they will trade as individual securities. The linkage is on a one-to-one basis so that a holder of notes is fully exposed to depreciation and appreciation of the Underlying Stocks.

Index-linked exchangeable notes are expected to trade at a cost lower than the cost of trading each of the Underlying Stocks separately (because of reduced commission and custody costs) and also give investors the ability to maintain index exposure without any management or administrative fees and ongoing expenses. The initial offering price for an index-linked exchangeable note will be established on the date the note is priced for sale to the public. In addition, index-linked exchangeable notes will not include embedded options or leverage. Because index-linked exchangeable notes are debt securities, a holder will not be recognized by issuers of the Underlying Stocks as the owner of those stocks and will have no rights as a stockholder with respect to those stocks.

Additional issuances of a series of index-linked exchangeable notes may be made subsequent to the initial issuance of that series (and prior to the maturity of that series) for purposes of providing market liquidity. Each series of index-linked exchangeable notes may or may not provide for quarterly interest coupons based on dividends or other cash distributions paid on the Underlying Stocks during a prescribed period and an annual supplemental coupon based on the value of the Underlying Index during a prescribed period. Index-linked exchangeable notes will generally be acquired, held, or transferred only in round-lot amounts (or round-lot multiples) of 100 notes.

Beginning on a specified date and up to a specified date prior to the maturity date or any call date, the holder of index-linked exchangeable notes may exchange some or all of its notes for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposed changes to ISE Rule 2101 that consolidate into a single rule certain requirements for products traded on the Exchange pursuant to unlisted trading privileges (''UTP'') that have been established in various new products proposals previously approved by the Commission. ISE will trade index-linked exchangeable notes pursuant to UTP, so the provisions of proposed ISE Rule 2101 would apply to this type of product.

[4] 15 U.S.C. 78s(b)(2).

[5] 17 CFR 240.19b–4(e).

[6] ISE Rule 2002(d) sets forth the criteria for trading options on a broad-based index.

their Cash Value Amount, plus any accrued but unpaid quarterly interest coupons. A holder will generally be required to exchange a certain specified minimum amount of notes, although this minimum requirement may be waived following a downgrade in the issuer's credit rating below specified thresholds or the occurrence of other specified events.

Index-linked exchangeable notes may be subject to call by the issuer on specified dates or during specified periods, upon at least 30, but not more than 60, days notice to holders. The call price would be equal to the Cash Value Amount, plus any accrued but unpaid quarterly interest coupons.

At maturity, the holder of an index-linked exchangeable note will receive a cash amount equal to the Cash Value Amount, plus any accumulated but unpaid quarterly and annual supplemental interest coupons. Although a specific maturity date will not be established until the time of the initial offering of a series of notes, the notes will provide for maturity within a period of not less than one or more than 30 years from the date of issue.

In connection with the initial listing of each series of index-linked exchangeable notes, the Exchange has established that a minimum of 150,000 notes held by at least 400 holders be required to be outstanding when trading begins (except if traded in thousand dollar denominations, then no minimum number of holders is necessary). Beginning 12 months after the initial issuance of a series of index-linked exchangeable notes, the Exchange will consider the suspension of trading in or removal from listing of that series of notes under any of the following circumstances: (1) The series has fewer than 50,000 notes issued and outstanding; (2) the market value of all notes of that series issued and outstanding is less than $1 million; or (3) such other event shall occur or such other condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

b. Eligibility Standards for Issuers

The following standards would apply to issuers of index-linked exchangeable notes:

• *Assets/Equity.* The issuer shall have assets in excess of $100 million and net worth of at least $10 million. If the issuer does not have pre-tax income from continuing operations of at least $750,000 in the last fiscal year or two of the last three fiscal years, the Exchange will require the issuer to have the following: (1) Total assets of at least $200 million and net worth of at least $10 million; or (2) total assets of at least $100 million and net worth of at least $20 million.[7]

• *Distribution.* Minimum public distribution of 150,000 notes with a minimum of 400 public note-holders. This minimum public note-holder requirement will not be applicable to an issue traded in thousand dollar denominations or if the securities are redeemable at the option of the holders on at least a weekly basis.[8]

• *Principal Amount/Aggregate Market Value.* Not less than $4 million.[9]

• *Tangible Net Worth.* The issuer will be expected to have a minimum tangible net worth in excess of $250 million, and to have a pre-tax income from continuing operations that substantially exceeds $750,000 in the last fiscal year or two of the last three fiscal years. In the alternative, the issuer will be expected: (1) To have a minimum tangible net worth of $150 million, and to otherwise substantially exceed the earnings requirements set forth above (in the first bullet point); and (2) not to have issued index-linked exchangeable notes where the original issue price of all the issuer's other index-linked exchangeable note offerings (combined with other index-linked exchangeable note offerings of the issuer's affiliates) listed on a national securities exchange exceeds 25% of the issuer's net worth.[10]

c. Description of the Underlying Indices

An Underlying Index will either be a Third-Party Index or an Issuer Index. All changes to an Underlying Index, including the deletion and addition of Underlying Stocks, index rebalancing, and changes to the calculation of the index, will be made in accordance with the Commission's order under section 19(b)(2) of the Act [11] or the Exchange rules under which that index was approved, as the case may be.

If the index is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor must erect and maintain a ''firewall'' around personnel who have access to information concerning changes and adjustments to the index and the index must be calculated by a third party who is not a broker-dealer or fund advisor.[12]

d. Eligibility Standards for Issuer Indices and Their Underlying Stocks

Pursuant to proposed ISE Rule 2133(d), Issuer Indices and their Underlying Stocks must either meet the procedures and criteria set forth in ISE Rule 2002(d) or satisfy the following minimum standards:

• Each Underlying Stock of an Issuer Index must: (1) Have a minimum market capitalization of $3 billion and, during the 12 months preceding listing of the index-linked exchangeable note, traded at least 2.5 million shares; (2) have a minimum market capitalization of $1.5 billion and, during the 12 months preceding listing of the index-linked exchangeable note, traded at least 10 million shares; or (3) have a minimum market capitalization of $500 million and, during the 12 months preceding listing of the index-linked exchangeable note, traded at least 15 million shares;

• Each issuer of an Underlying Stock must be a reporting company under the Act that is listed on a national securities exchange and is subject to last-sale reporting; in addition, if any Underlying Stock is the stock of a non-U.S. company that is traded in the U.S. market as a sponsored American Depositary Share (''ADS''), ordinary share or otherwise, then for each such security the Exchange shall either: (1) Have in place a comprehensive surveillance sharing agreement with the primary exchange on which each non-U.S. security is traded (in the case of an ADS, the primary exchange on which the security underlying the ADS is traded); (2) the combined trading volume of each non-U.S. security and other related non-U.S. securities occurring in the U.S. market or in markets with which the Exchange has in place a comprehensive surveillance sharing agreement represents (on a share equivalent basis for any ADS) at least 50% of the combined worldwide trading volume in such securities (*i.e.*, each non-U.S. security, other related non-U.S. securities, and other classes of common stock related to each non-U.S. security) over the six-month period preceding the date of listing; or (3) (a) the combined trading volume of each non-U.S. security and other related non-U.S. securities occurring in the U.S. market represents (on a share equivalent basis) at least 20% of the combined world-wide trading volume in such securities (*i.e.*, each non-U.S. security and in other related non-U.S. securities) over the six-month period preceding the date of selection of the non-U.S. security for an index-linked exchangeable note listing; (b) the average daily trading volume for each non-U.S. security in the U.S. markets over the six months preceding the selection of each non-U.S. security for an index-linked exchangeable note listing is 100,000 or more shares; and (c) the trading volume

[7] *See* proposed ISE Rule 2133(a)(2).

[8] *See* proposed ISE Rule 2133(a)(1).

[9] *See* proposed Rule 2133(a)(3).

[10] *See* proposed Rule 2133(c).

[11] 15 U.S.C. 78s(b)(2).

[12] *See* proposed ISE Rule 2133(g).

is at least 60,000 shares per day in the U.S. markets on a majority of the trading days for the six months preceding the date of selection of each non-U.S. security for an index-linked exchangeable note listing; and

• If any underlying security to which the instrument is to be linked is the stock of a non-U.S. company which is traded in the U.S. market as a sponsored ADS, ordinary share, or otherwise, then the minimum number of holders of such underlying linked security shall be 2,000; and

• The index concentration limits set forth in ISE Rule 2002(d) are met.[13]

e. Exchange Rules Applicable to Index-Linked Exchangeable Notes

Index-linked exchangeable notes will be subject to all Exchange rules governing the trading of equity securities.

In addition, pursuant to Rule 10A–3 under the Act[14] and section 3 of the Sarbanes-Oxley Act of 2002,[15] the Exchange will prohibit the initial or continued listing of any security of an issuer that is not in compliance with the requirements set forth therein.

Pursuant to proposed ISE Rule 2101, new derivative securities products traded on the Exchange pursuant to UTP, including index-linked exchangeable notes, will be subject to a number of requirements previously made as representations. For example, pursuant to proposed ISE Rule 2101(a)(2)(i), the Exchange will distribute a Regulatory Information Circular prior to the commencement of trading in such new derivative securities product that generally will include the same information as the information circular provided by the listing exchange, including: (1) The special risks of trading the new derivative securities product; (2) the Exchange's rules that will apply to the new derivative securities product, including the suitability rule; (3) information about the dissemination of value of the underlying assets or indexes; and (4) the risk of trading during the Pre-Market Session due to the lack of calculation or dissemination of information about the underlying assets and/or index value.

Proposed ISE Rule 2101(a)(2)(ii) reminds Equity EAMs that they are subject to the prospectus delivery requirements under the Securities Act of 1933, unless the new derivative securities product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under section 24(d) of the Investment Company Act of 1940 and the product is not otherwise subject to prospectus delivery requirements under the Securities Act of 1933. The Exchange will inform its Equity EAMs regarding the application of the provisions of this subparagraph to a new derivative securities product by means of a Regulatory Information Circular.

Additionally, the proposed rule change sets forth procedures for halting trading in certain circumstances. When the Exchange is the listing market for index-linked exchangeable notes, if the official index value applicable to that index-linked exchangeable note is interrupted, the Exchange may halt trading during the day in which the interruption occurs; if the interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[16] The Exchange also will immediately halt trading in a new derivative securities product trading on the Exchange pursuant to UTP upon notification by the listing market of a halt due to a temporary interruption in the calculation or wide dissemination of the Intraday Indicative Value (''IIV'') or the value of the underlying index.[17] If the interruption persists until the scheduled commencement of trading on the next business day, the Exchange will not commence trading of the product on that day.[18] The Exchange may resume trading in the product only if calculation and wide dissemination of the IIV or the value of the underlying index resumes or trading in such series resumes in the listing market.[19] Further, for new derivative securities products trading on the Exchange on a UTP basis where a net asset value (''NAV'') is disseminated, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, the Exchange will immediately halt trading; the Exchange may resume trading in the product only when trading in the new derivative securities product resumes on the listing market.[20]

2. Statutory Basis

The basis under the Act for this proposed rule change is found in section 6(b)(5),[21] in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2007–99 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.

All submissions should refer to File Number SR–ISE–2007–99. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[13] *See* ISE Rule 2002(d).

[14] 17 CFR 240.10A–3.

[15] *Section* 3 of Pub. L. 107–204, 116 Stat. 745 (2002).

[16] *See* proposed ISE Rule 2133(h).

[17] *See* proposed ISE Rule 2101(a)(2)(iii)(A).

[18] *See id.*

[19] *See id.*

[20] *See* proposed ISE Rule 2101(a)(2)(iii)(B).

[21] 15 U.S.C. 78f(b)(5).

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 ISE. 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–ISE–2007–99 and should be submitted on or before March 26, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act [23] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Currently, the Exchange would have to file a proposed rule change with the Commission pursuant to section 19(b)(1) of the Act [24] and Rule 19b–4 thereunder [25] to list or trade any index-linked exchangeable notes. Rule 19b–4(e), however, provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') will not be deemed a proposed rule change pursuant to Rule 19b–4(c)(1) if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class. The Exchange's proposed rules fulfill these requirements. Use of Rule 19b–4(e) by ISE to list or trade equity securities such as index-linked exchangeable notes should promote competition, reduce burdens on issuers and other market participants, and make offerings available to investors more quickly.

The Commission has approved generic listing standards for index-linked exchangeable notes on other national securities exchanges similar to those being proposed by ISE.[26] ISE's proposal does not appear to raise any novel regulatory issues, and the Commission is approving it on the same basis as those earlier proposals.

Additionally, the Commission believes that the proposed rules are reasonably designed to promote fair disclosure of information that may be necessary to price index-linked exchangeable notes appropriately. If a broker-dealer or fund advisor is responsible for maintaining (or has a role in maintaining) the underlying index, such broker-dealer or fund advisor would be required to erect and maintain a ''firewall'' to prevent the flow of non-public information regarding the underlying index from the personnel involved in the development and maintenance of such index to others such as sales and trading personnel.[27] The Commission also believes that the Exchange's proposed trading halt rules, discussed above, are reasonably designed to prevent trading when transparency is impaired.

Further, the Commission believes that the trading rules and procedures to which products will be subject pursuant to this proposal are consistent with the Act. Products traded pursuant to the proposed rule change would be subject to ISE's previously approved rules governing the trading of Equity Securities.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of new derivative securities products, including index-linked exchangeable notes. The proposed rule change also requires that the Exchange enter into a comprehensive surveillance sharing agreement (''CSSA'') with markets trading components of the index or portfolio on which the new derivative securities product is based to the same extent as the listing exchange's rules require the listing market to enter into a CSSA with such markets. This approval is based on that recommendation.

Acceleration

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. ISE's proposal is similar to other proposals that have been approved by the Commission.[28] The Commission believes that ISE's proposal does not raise any novel issues, and accelerated approval of the proposal will expedite the listing and trading of additional products by the Exchange, subject to consistent and reasonable standards. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[29] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–ISE–2007–99), as modified by Amendment No. 1 thereto, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4172 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

[22] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(1).

[25] 17 CFR 240.19b–4.

[26] *See* Securities Exchange Act Release No. 49532 (April 7, 2004), 69 FR 19593 (April 13, 2004) (SR–PCX–2004–01); Securities Exchange Act Release No. 46370 (August 16, 2002), 67 FR 54509 (August 22, 2002) (SR–CBOE–2002–29); Securities Exchange Act Release No. 45082 (November 19, 2001), 66 FR 59282 (November 27, 2001) (SR–Phlx–2001–92); Securities Exchange Act Release No. 44621 (July 30, 2001), 66 FR 41064 (August 6, 2001) (SR–Amex–2001–29).

[27] *See* proposed ISE Rule 2133(h).

[28] *See supra* at note 26.

[29] 15 U.S.C. 78s(b)(2).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57394; File No. SR–ISE–2008–18]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Accommodation Liquidations

February 28, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2008, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. ISE filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 718(d) regarding accommodation liquidations (also referred to as ''cabinet trades''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

An ''accommodation'' or ''cabinet'' trade refers to trades in listed options on the Exchange that are worthless or not actively traded, often times conducted to establish tax losses. ISE Rule 718, Accommodation Liquidations (Cabinet Trades), sets forth specific procedures for engaging in cabinet trades. Currently, the rule provides for cabinet transactions to occur at a cabinet price of $1 per options contract. Further, ISE Rule 718(d) states that orders for cabinet trades may only be placed for public customer accounts. The Exchange now proposes to amend Rule 718(d) so that cabinet trades also can be placed on behalf of broker-dealer and market maker accounts. Under the proposed rule, priority will be continue to be based upon the sequence in which cabinet orders are placed on the Exchange. This proposed rule change will bring ISE's rules into conformance with those of the other national securities exchanges who already permit these account types to initiate cabinet trades.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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 believes that the proposed rule change will strengthen the Exchange's competitive position while allowing a greater number of market participants to initiate cabinet trades on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states it has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. Since the proposal allows additional account types to initiate cabinet trades, similar to practices on other exchanges, the Exchange believes that there will be no detrimental effect on other market participants. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[9] This proposal is substantively identical to the rules of at least one other national securities exchange,[10] and raises no novel issues.

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:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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 fulfilled this requirement.

[9] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] *See* Chicago Board Options Exchange Rule 6.54(a)(iii).

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–ISE–2008–18 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–ISE–2008–18. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–18 and should be submitted on or before March 26, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4177 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57385; File No. SR–NSCC–2007–17]

Self-Regulatory Organizations; the National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Fee Schedule

February 27, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 31, 2007, the National Securities Clearing Corporation (''NSCC'') 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 primarily by NSCC. 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 proposed rule change modifies NSCC's fee schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise fees for certain services provided by NSCC. These revisions include the following fee changes to align fees with costs of delivering services:

1. Implementation of a restructured clearing fee model, changing from the current solely transaction-based pricing structure to a methodology that combines the number of transactions processed with the value of those transactions;

2. reductions in Automated Customer Account Transfer Services (ACATS) fee;

3. reductions in Fund/SERV and Networking fees;

4. elimination of Insurance and Retirement Processing Services file fees; and

5. introduction of new fees for a new Funds Transfers service to be introduced in 2008 under NSCC's Insurance and Retirement Processing Services product line.

NSCC's fee schedule as it is being modified by this proposed rule change is attached as Exhibit 5 to NSCC's filing.[3] Unless otherwise noted in Exhibit 5, the proposed fee changes became effective on January 2, 2008.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder, because it provides for the equitable allocation of fees among its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change changes fees charged by NSCC, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2)[5] thereunder. At any time within sixty 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.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] File No. SR–NSCC–2007–17, including Exhibit 5, can be viewed at *http://www.dtcc.com/downloads/legal/rule_filings/2007/nscc/2007-17.pdf.*

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

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–NSCC–2007–17 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–NSCC–2007–17. 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 NSCC. 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–NSCC–2007–17 and should be submitted on or before March 26, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4171 Filed 3–4–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57390; File No. SR–NSX–2008–02]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Pass-Through of Certain Costs to ETP Holders

February 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 5, 2008, the National Stock Exchange, Inc. (''NSX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the Exchange. On February 27, 2008, NSX filed Amendment No. 1 to the proposed rule change to make certain clarifying changes to the description of its proposal. NSX has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by NSX under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSX proposes to amend the NSX BLADE SM Fee and Rebate Schedule to give the Exchange the explicit authority to pass through to a specific ETP Holder costs that are assessed to the Exchange by a third party that are attributable to that particular ETP Holder for its use of the facilities of the Exchange. The text of the proposed rule change is available at *www.nsx.com*, the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSX 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

With this rule change, the Exchange is proposing that the NSX BLADE Fee Schedule be amended to give the Exchange the explicit authority to pass through to a specific ETP Holder[5] costs that are assessed to the Exchange by a third party vendor that are attributable to that particular ETP Holder for its use of the facilities of the Exchange. These costs include line connectivity and other technological charges and/or upgrades assessed for the ETP Holder's communications with the Exchange, in connection with the Cross Connect service defined below.

The Exchange currently offers ETP Holders the option of connecting to the Exchange through a direct connection, a service provider or through an extranet provider. ETP Holders electing a direct connection to the Exchange that do not utilize a circuit/line obtained from the third party vendor that houses the Exchange's data center must be connected to the Exchange through a line or circuit provided by that vendor (hereinafter the ''Cross Connect'' service). The third party vendor charges fees associated with this Cross Connect service (the ''Cross Connect Fee Schedule''). It should be noted that the third party vendor does not charge a Cross Connect fee for any ETP Holder that utilizes the vendor's circuits.

The Cross Connect Fee Schedule includes a one-time installation charge per circuit or line, and monthly fees which vary depending on the different

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] An ETP Holder is a registered broker or dealer that has been issued an Equity Trading Permit (''ETP'') by NSX. An ETP Holder will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act (15 U.S.C. 78c(a)(3)).

circuit levels selected. These circuit options include a T–1, T–3 and Ethernet circuit lines. The vendor also offers this service to connect to the Exchange's primary and back-up data centers. Thus, to establish connectivity, the ETP Holder must select the preferred circuit/line size, number of lines desired and location preferences. In all cases, the ETP Holder selects the service that it desires, and thus, is apprised of and in fact exercises control over the fees associated with this connectivity to the Exchange.

The current Cross Connect Fee Schedule provides for a one-time installation charge for a router of $150 and a one-time installation charge ranging between $100 and $275 per circuit depending on the circuit selected. In addition, the current Cross Connect Fee Schedule provides for monthly fees ranging between $50 and $375 per circuit per location. While these costs are determined between the ETP Holder and vendor, the Exchange represents that it will maintain a current schedule of fees from the third-party vendor, and will provide this Cross Connect Fee Schedule to ETP Holders upon request and/or otherwise make it available on the Exchange's Web site.

It should be noted that these costs could be directly billed to the ETP Holder by the third party vendor, but for administrative ease, the Exchange has agreed to act as an intermediary. Because the Exchange has an existing contractual relationship with the third party vendor, the latter prefers to charge the Exchange rather than the ETP Holder directly. These charges are limited to those that are incurred by the Exchange from a third party on behalf of a particular ETP Holder for that ETP Holder's benefit and use of the facilities of the Exchange. In addition, as stated, the ETP Holder would be notified of any charges which would be subject to this pass through provision prior to the charge being incurred.

This provision is intended to capture those costs relating to services that directly benefit and are requested by ETP Holders for certain services and do not include the general operating expenses of the Exchange. Moreover, the Exchange proposes to pass through such costs without any markup or premium imposed by the Exchange.

The Exchange has determined that this change is necessary for competitive reasons. The cumulative amount of such costs, without the ability to pass them through to the ETP Holders who benefit from and in fact request the services giving rise to such costs, puts the Exchange at a competitive disadvantage. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest.

The Exchange intends to pass through costs to ETP Holders in accordance with the proposed rule change immediately upon filing of this proposed rule change with the Commission for the time period covered by the February invoice.

Pursuant to Exchange Rule 16.1(c), the Exchange will ''provide ETP Holders with notice of all relevant dues, fees, assessments and charges of the Exchange''. The Exchange will issue a Regulatory Circular of the changes to the NSX BLADE Fee Schedule and will provide a copy of the rule filing on the Exchange's Web site (*http://www.nsx.com*).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder, because it establishes or changes a due, fee, or other charge imposed on members by the Exchange. Accordingly, the proposal is effective upon filing with the Commission. 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.[10]

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–NSX–2008–02 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–NSX–2008–02. 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 publicly available. All submissions should refer to File

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 27, 2008, the date on which NSX filed Amendment No. 1.

Number SR–NSX–2008–02 and should be submitted on or before March 26, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4175 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57389; File No. SR–NYSEArca–2008–06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to the Dissemination of the Index Value for Equity Index-Linked Securities

February 27, 2008.

I. Introduction

On January 11, 2008, NYSE Arca, Inc. (''NYSE Arca'' 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 relating to the dissemination of the index value for Equity Index-Linked Securities.[3] The proposed rule change was published for comment in the **Federal Register** on February 11, 2008 for a 15-day comment period.[4] The Commission received no comments on the proposal. This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) currently provides that the Exchange will commence delisting or removal proceedings of an issue of Equity Index-Linked Securities (unless the Commission has approved continued trading of such Securities) if, among other circumstances, the value of the index or composite value of the indexes underlying such issue is no longer calculated or widely disseminated on at least a 15-second basis. The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(c)(ii) to distinguish between indexes consisting solely of U.S. equity securities and those consisting of foreign securities or a combination of U.S. and foreign equity securities. The proposed amendment provides that the Exchange will commence delisting or removal proceedings if the underlying index value or composite index value is no longer calculated or widely disseminated: (1) On at least a 15-second basis with respect to an index or indexes containing only securities listed on a national securities exchange;[5] or (2) on at least a 60-second basis with respect to an index or indexes containing foreign country securities. If the official index value does not change during some or all of the period when trading is occurring on the NYSE Arca Marketplace[6] (for example, for indexes of foreign country securities, there may be time zone differences or holidays in the countries where such indexes' component stocks trade), then the last calculated official index value must remain available throughout NYSE Arca Marketplace trading hours. The Exchange seeks to conform the index dissemination requirements for Equity Index-Linked Securities to those for Investment Company Units, which include exchange-traded funds or ''ETFs,'' under NYSE Arca Equities Rule 5.2(j)(3).

III. Discussion and Commission's Findings

After careful consideration, 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.[7] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules be designed 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 Commission notes that opportunities to invest in derivative securities products based not only on U.S. equity securities, but also on an international or global index of equity securities, provide additional choices to accommodate particular investment needs and objectives, to the benefit of investors. With respect to the dissemination of the value of an index that is comprised, at least in part, of non-U.S. equity component securities, the proposed 60-second standard reflects limitations, in some instances, on the frequency of intra-day trading information with respect to such foreign securities and that, in many cases, trading hours for overseas markets overlap only in part, or not at all, with NYSE Arca Marketplace trading hours.[9] In addition, if an index or portfolio value does not change for some of the time that the derivative securities product trades on the Exchange, the last official calculated value must remain available throughout Exchange trading hours. The Commission believes that such 60-second standard relating to the dissemination of the value of an index composed, at least in part, of foreign equity securities should apply to Equity Index-Linked Securities as well as ETFs and finds that NYSE Arca's proposal is consistent with the Exchange Act on the same basis that it approved the other exchanges' generic listing standards for ETFs based on international or global indexes.[10]

The Commission finds good cause for approving the proposed rule change before the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that the proposal is substantially similar to previously approved listing standards for Investment Company Units under NYSE Arca Equities Rule 5.2(j)(3)[11] and for ETFs listed and traded pursuant to similar rules of other national securities exchanges.[12] The Commission believes that accelerated approval of the proposed rule change,

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Equity Index-Linked Securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities. *See* NYSE Arca Equities Rule 5.2(j)(6).

[4] *See* Securities Exchange Act Release No. 57273 (February 5, 2008), 73 FR 7774.

[5] American Depositary Shares and common shares of foreign issuers listed on U.S. national securities exchanges included in an index or indexes would be subject to the 15-second dissemination requirement.

[6] *See* NYSE Arca Equities Rule 1.1(e) (defining NYSE Arca Marketplace).

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release No. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86) (approving generic listing standards for ETFs based on international or global indexes).

[10] *See, e.g.*, Securities Exchange Act Release Nos. 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR–NASDAQ–2006–050); 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR–NYSE–2006–101); and 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR–Amex–2006–78).

[11] *See supra* note 9. *See also* Commentary .01(b)(2) to NYSE Arca Equities Rule 5.2(j)(3).

[12] *See supra* note 10.

which clarifies the dissemination of the value of the index underlying an issue of Equity Index-Linked Securities, should promote the continued listing and trading of Equity Index-Linked Securities to the benefit of investors. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSEArca–2008–06) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4174 Filed 3–4–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57395; File No. SR–NYSEArca–2008–25]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Managed Fund Shares, Trading Hours and Halts, Listing Fees Applicable to Managed Fund Shares, and the Listing and Trading of Shares of the PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio, and the PowerShares Active Low Duration Portfolio

February 28, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The 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: (1) Add new NYSE Arca Equities Rule 8.600 to permit the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of securities issued by an actively managed, open-end investment management company (''Managed Fund Shares''); (2) list and trade the shares (''Shares'') of the PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio, and the PowerShares Active Low Duration Portfolio (collectively, the ''Funds''); (3) amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference Managed Fund Shares; and (4) amend its listing fees to include Managed Fund Shares under the term ''Derivative Securities Products.'' The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new NYSE Arca Equities Rule 8.600 to permit the listing and trading, or trading pursuant to UTP, of Managed Fund Shares, which are securities issued by an actively managed, open-end investment management company. The Exchange also proposes to amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference Managed Fund Shares in paragraph (a)(3)(A), relating to hours of the Exchange's Core Trading Session, and paragraph (a)(4)(A), relating to trading halts when trading pursuant to UTP during the Exchange's Opening Session. In addition, the Exchange proposes to amend its listing fees by incorporating Managed Fund Shares in the term ''Derivative Securities Products.'' Finally, pursuant to new NYSE Arca Equities Rule 8.600, the Exchange proposes to list and trade the Shares of the Funds.

Proposed Listing Rules for Managed Fund Shares

Under proposed NYSE Arca Equities Rule 8.600(c)(1), a ''Managed Fund Share'' is a security that: (1) Represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (2) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''); and (3) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV.

Proposed NYSE Arca Equities Rule 8.600(c)(2) defines ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of the NAV at the end of the business day. Proposed NYSE Arca Equities Rule 8.600(c)(3) defines ''Portfolio Indicative Value'' as the estimated indicative value of a Managed Fund Share based on current information regarding the value of the securities and other assets in the Disclosed Portfolio. Finally, proposed NYSE Arca Equities Rule 8.600(c)(4) defines ''Reporting Authority'' as, in respect of a particular series of Managed Fund Shares, the Corporation,[3] an institution, or a reporting service designated by the Corporation or by the exchange that lists a particular series of Managed Fund Shares (if the Corporation is trading such series pursuant to UTP) as the official source for calculating and reporting information relating to such series, including, but not limited to, the (i) Portfolio Indicative Value, (ii) the Disclosed Portfolio, (iii) the amount of any cash distribution to holders of Managed Fund Shares, (iv) NAV, or (v) other information relating to the issuance, redemption, or trading of Managed Fund Shares. A series of

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The ''Corporation'' means NYSE Arca Equities. *See* NYSE Arca Equities Rule 1.1(k) (defining Corporation).

Managed Fund Shares may have more than one Reporting Authority, each having different functions.

Proposed NYSE Arca Equities Rule 8.600(d) sets forth the initial and continued listing criteria applicable to Managed Fund Shares. Proposed Rule 8.600(d)(1) provides that, for each series of Managed Fund Shares, the Corporation will establish a minimum number of Managed Fund Shares required to be outstanding at the time of commencement of trading. In addition, the Corporation will obtain a representation from the issuer of each series of Managed Fund Shares that the NAV per share for the series will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Proposed NYSE Arca Equities Rule 8.600(d)(2) provides that each series of Managed Fund Shares will be listed and traded subject to application of the following continued listing criteria: (1) The Portfolio Indicative Value for Managed Fund Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Corporation; (2) the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time; and (3) the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(C) provides that the Corporation will consider the suspension of trading in, or removal from listing of, a series of Managed Fund Shares under any of the following circumstances: (1) If, following the initial twelve-month period after commencement of trading on the Exchange of a series of Managed Fund Shares, there are fewer than 50 beneficial holders of the series of Management Fund Shares for 30 or more consecutive trading days; (2) if the value of the Portfolio Indicative Value is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time; (3) if the Investment Company issuing the Managed Fund Shares has failed to file any filings required by the Commission or if the Corporation is aware that the Investment Company is not in compliance with the conditions of any exemptive order or no-action relief granted by the Commission to the Investment Company with respect to the series of Managed Fund Shares; or (4) if such other event shall occur or condition exists which, in the opinion of the Corporation, makes further dealings on the Corporation inadvisable.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(D) provides that, if the Portfolio Indicative Value of a series of Managed Fund Shares is not being disseminated as required, the Corporation may halt trading during the day in which the interruption to the dissemination of the Portfolio Indicative Value occurs. If the interruption to the dissemination of the Portfolio Indicative Value persists past the trading day in which it occurred, the Corporation will halt trading no later than the beginning of the trading day following the interruption. If a series of Managed Fund Shares is trading on the Corporation pursuant to UTP, the Corporation will halt trading in that series as specified in NYSE Arca Equities Rule 7.34(a), as proposed to be amended. In addition, if the Exchange becomes aware that the NAV or the Disclosed Portfolio with respect to a series of Managed Fund Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV or the Disclosed Portfolio is available to all market participants.

Proposed NYSE Arca Equities Rule 8.600(d)(2)(E) provides that, upon termination of an Investment Company, the Corporation requires that Managed Fund Shares issued in connection with such entity be removed from Corporation listing. Proposed NYSE Arca Equities Rule 8.600(d)(2)(F) provides that voting rights shall be as set forth in the applicable Investment Company prospectus. Proposed NYSE Arca Equities Rule 8.600(e) relates to the limitation of Corporation liability.

Proposed Commentary .01 to new NYSE Arca Equities Rule 8.600 provides that the Corporation will file separate proposals under section 19(b) of the Act before the listing and/or trading of Managed Fund Shares. Proposed Commentary .02 provides that transactions in Managed Fund Shares will occur during the trading hours specified in NYSE Arca Equities Rule 7.34(a), as proposed to be amended. Proposed Commentary .03 provides that the minimum price variation for quoting and entry of orders in Managed Fund Shares is $0.01. Proposed Commentary .04 provides that the Exchange will implement written surveillance procedures for Managed Fund Shares.

Proposed Commentary .05 to new NYSE Arca Equities Rule 8.600, which is substantially similar to existing Commentary .01(i) to NYSE Arca Equities Rule 5.2(j)(3), provides that, for Managed Fund Shares based on an international or global portfolio, the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 (''1940 Act'') for the series of Managed Fund Shares must state that such series must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). Proposed Commentary .06 to new NYSE Arca Equities Rule 8.600, which is substantially similar to existing Commentary .01(h) to NYSE Arca Equities Rule 5.2(j)(3), sets forth certain obligations of ETP Holders [4] with respect to Managed Fund Shares that receive an exemption from certain prospectus delivery requirements under section 24(d) of the 1940 Act.

Amendments to NYSE Arca Equities Rule 7.34

The Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(3)(A) to add Managed Fund Shares to the list of securities for which the Core Trading Session on the Exchange concludes at 4:15 p.m. Eastern Time or ''ET.'' In addition, the Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(4)(A) to include Managed Fund Shares under ''Derivative Securities Products'' in connection with trading halts for trading pursuant to UTP on the Exchange.

Amendments to Listing Fees

The Exchange proposes to add Managed Fund Shares to the securities included under the term ''Derivative Securities Products,'' as defined in the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services.

Key Features of Managed Fund Shares

Registered Investment Company. A Managed Fund Share means a security that represents an interest in an investment company registered under the 1940 Act organized as an open-end

[4] An ''ETP Holder'' is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit or ''ETP.'' An ETP Holder must be a registered broker or dealer pursuant to *section* 15 of the Act. *See* NYSE Arca Equities Rule 1.1(m) and (n) (defining ETP and ETP Holder).

investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, the open-end investment company that issues shares of an index-based exchange-traded fund (''Index ETF'') seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

1940 Act Exemptive Relief. The 1940 Act contemplates two categories of investment companies: Those which issue redeemable securities, *i.e.*, open-end investment companies; and those which do not, *i.e.*, closed-end investment companies. Index ETF shares are redeemable, but only in large blocks of shares (not individually), so it is not certain whether they are considered redeemable under the 1940 Act. Because Index ETFs do not fit neatly into either the open-end category or the closed-end category, Index ETFs have had to seek exemptive relief from the Commission to be registered as an open-end investment company. Managed Fund Shares share key structural features with Index ETFs, such as creation and redemption in large blocks of shares being the most important one, that result in the need for exemptive relief, and therefore, Managed Fund Shares will require relief from the same provisions of the 1940 Act.[5]

Intraday Trading. Like Index ETFs, Managed Fund Shares will be listed and traded on a national securities exchange and, therefore, will be available for sale and purchase on an intraday-basis, like other listed securities. In contrast, shares of managed mutual funds may only be purchased and sold (issued and redeemed) in direct transactions with the fund, once each day.

Creation and Redemption of Shares. Managed Fund Shares will be issued and redeemed on a daily basis at NAV, as with Index ETFs. And like Index ETFs, creations and redemptions for Managed Fund Shares must be in large specified blocks of shares called ''Creation Units.'' Purchases and sales of shares in amounts smaller than the number of shares required for a Creation Unit may be effected only in the secondary market and not directly with the fund.

For most Index ETFs, the creation and redemption process is effected ''in kind.'' Creation ''in kind'' typically means that the investor—usually a brokerage house or large institutional investor—purchases the Creation Unit with a ''Portfolio Deposit'' equal in value to the aggregate NAV of the shares in the Creation Unit. The Portfolio Deposit generally consists of a basket of securities that reflects the composition of the Index ETF's portfolio. Similarly, an investor redeeming shares in the Index ETF receives in exchange for shares in the Index ETF the securities in the ''Redemption Basket,'' which is usually the same as the Portfolio Deposit and consists of securities that reflect the composition of the Index ETF's portfolio. The Portfolio Deposit often includes a small cash component to make the value of the deposit or basket exactly equal to the aggregate NAV. Most Index ETFs also permit cash creations and redemptions under specified, limited, circumstances.

Managed Fund Shares may use one or more of the following three approaches to creation and redemption: (1) ''In kind'' creation and redemption using a Portfolio Deposit that reflects the composition of the fund; (2) cash creation and redemption; or (3) ''in kind'' creation and redemption using a Portfolio Deposit consisting of securities that do not reflect the composition of the fund, but instead investments in other securities including, for example, specified Index ETFs.

Portfolio Disclosure. One common feature of Index ETFs is disclosure of the contents of the Portfolio Deposit on a daily basis. Aside from providing the information required for daily creation and redemption, the Portfolio Deposit gives market participants a basis for estimating the intraday value of the fund, and thus, providing a basis for the arbitrage that keeps the market price of Index ETFs generally in line with the NAV of the Index ETF.

While Managed Fund Shares may use an in-kind or cash creation and redemption mechanism, as noted above, each series of Managed Fund Shares will disclose daily the identities and quantities of the portfolio of securities and other assets (*i.e.*, the Disclosed Portfolio) held by the applicable fund that will form the basis for the fund's calculation of NAV at the end of the business day.

Portfolio Indicative Value.[6] For each series of Managed Fund Shares, an estimated value, defined in the proposed rules as the ''Portfolio Indicative Value,'' that reflects an estimated intraday value of the fund portfolio will be disseminated. The Portfolio Indicative Value will be based on the current value of the components of the Disclosed Portfolio and will be disseminated by the Exchange at least every 15 seconds during the Core Trading Session through the facilities of the Consolidated Tape Association (''CTA''). The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of a series of Managed Fund Shares on a daily basis and to provide a close estimate of that value throughout the trading day.

Description of the Funds and the Trust

The Shares will be offered by the Trust, a business trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[7] The Trust currently consists of the four Funds, each a separate, actively managed exchange-traded fund. The Funds will not purchase or sell securities in markets outside the United States.

The Exchange represents that the Shares will conform to the initial and continued listing criteria under proposed NYSE Arca Equities Rule 8.600.[8] PowerShares Capital Management LLC is the investment adviser to the Funds and is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). AER Advisors, Inc. (''AER'') is the subadviser to the PowerShares Active AlphaQ Fund and the PowerShares Active Alpha Multi-Cap Fund (the ''Initial AER Funds'') and is registered as an investment adviser under the Advisers Act. Invesco Institutional (N.A.) Inc. (''Invesco'') is the subadviser to the PowerShares Active Mega-Cap Portfolio and the PowerShares Active Low Duration Portfolio (the ''Initial Invesco Funds'') and is also registered as an investment

[5] The Exchange states that the PowerShares Actively Managed Exchange-Traded Fund Trust (''Trust'') is registered under the 1940 Act. On November 26, 2007 the Trust filed with the Commission a Registration Statement for the Funds on Form N–1A under the Securities Act and under the 1940 Act (File Nos. 333–147622 and 811–22148) (''Registration Statement''). On November 16, 2007 the Trust filed with the Commission on Form 40–6C/A an Amended and Restated Application (''Application'') for an Amended Order under sections 6(c) and 17(b) of the 1940 Act (File No. 812–13386–04). *See* Investment Company Act Release No. 28140 (February 1, 2008), 73 FR 7328 (February 7, 2008) (File No. 812–13386) (providing notice of application for an exemptive order under section 6 of the 1940 Act).

[6] The Portfolio Indicative Value is comparable to the Intraday Indicative Value for Index ETFs. This value of the estimated NAV of a share of an Index ETF is for investors, professionals, and persons wishing to create or redeem shares in Index ETFs.

[7] *See supra* note 5.

[8] The Exchange further represents that, for initial and/or continued listing, Managed Fund Shares must also be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Equities Rule 5.3. *See* 17 CFR 240.10A–3.

adviser under the Advisers Act.[9] AIM Distributors, Inc. serves as the principal underwriter and distributor for each of the Funds.

AER will employ its stock screening methodology in the management of the Initial AER Funds. In employing its methodology, AER will track and rate all U.S. stocks of companies with over a $400 million market capitalization and listed on a national securities exchange. It is anticipated by AER that less than 3% of all securities in the Master List (as defined in the Application) will be American Depositary Receipts (''ADRs'') and that ADRs will not represent more than 3% of any one Fund. Each Initial AER Fund's investment objective will be to provide long-term capital appreciation by investing, under normal conditions, at least 95% of its total assets in stocks represented in its appropriate universe as determined by AER. The balance of the Initial AER Fund's assets may be invested in cash and money market instruments. Each Initial AER Fund's benchmark index will be a broad-based index relevant to its investment objective, strategy, and market capitalization. AER anticipates that the benchmark indexes for the Initial AER Funds will be as follows: (1) NASDAQ 100 Index for the PowerShares Active AlphaQ Fund; and (2) S&P 500 Index for the PowerShares Active Alpha Multi-Cap Fund.

The PowerShares Active Mega-Cap Portfolio's investment objective, which is long-term growth of capital, seeks to invest, normally, at least 80% of its assets in a diversified portfolio of equity securities of mega-capitalization companies. The principal type of equity securities purchased by the Fund is common stock. The PowerShares Active Mega-Cap Portfolio may also invest in derivative instruments such as futures contracts and equity linked derivatives.

The PowerShares Active Low Duration Portfolio's investment objective, which is to provide total return, seeks to exceed the total return of the Lehman Brothers 1–3 Year U.S. Treasury Index by investing, normally, at least 80% of its assets in a diversified portfolio of U.S. government and corporate debt securities. The PowerShares Active Low Duration Portfolio may invest in structured securitized debt securities, such as asset-backed securities and both residential and commercial mortgage-backed securities, and the Fund's investments may include investments in derivative instruments. Derivative instruments that the Fund may invest in include, but are not limited to, swaps, including interest rate, total return, and credit default swaps, put options, call options, and futures contracts and options on futures contracts. The Fund may also utilize other strategies such as dollar rolls and reverse repurchase agreements. The Fund may also invest up to 25% of its total assets in non-investment grade securities (junk bonds).

The Creation Unit size for each of the Funds will be 50,000 Shares.

Availability of Information

The Funds' Web site (*http://www.powershares.com*), which will be publicly available prior to the public offering of the Shares, will include a form of the prospectus for each Fund that may be downloaded. The Web site will include for each Fund additional quantitative information updated on a daily basis, including: (1) Daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[10] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of the Core Trading Session, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[11]

Investors interested in a particular Fund can also obtain the Trust's Statement of Additional Information (''SAI''), each Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site (*http://www.sec.gov*).

Information regarding market price and volume is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the facilities of the CTA. In addition, the Portfolio Indicative Value will be disseminated by the Exchange at least every 15 seconds during the Core Trading Session through the facilities of CTA. The NAV of each Fund will normally be determined as of the close of the regular trading session on the New York Stock Exchange LLC (ordinarily 4:00 p.m. ET) on each business day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[12] Trading in the Shares of the Funds will be halted if the circuit breaker parameters under NYSE Arca Equities Rule 7.12 are reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the financial instruments of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to proposed NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which trading in the Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. ET, in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange states that it has appropriate

[9] The Exchange states that the information provided herein is based on information included in the Application. While PowerShares Capital Management LLC will manage the Funds, the Funds' board of trustees will have overall responsibility for the Funds' operations. The Exchange represents that the composition of the board is, and will be, in compliance with the requirements of *Section* 10 of the 1940 Act.

[10] The Bid/Ask Price of a Fund is determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[11] Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in the NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[12] *See* Commentary .04 to NYSE Arca Equities Rule 7.12.

rules to facilitate transactions in the Shares during all trading sessions.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which will include Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and, where appropriate, investigations are opened to review the behavior of all relevant parties for all relevant trading violations. The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliate members of ISG.[13] In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; [14] (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4 p.m. ET each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) of the Act,[15] which states that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change will facilitate the listing and trading of additional types of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in the proposal are intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that it has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–25 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–NYSEArca–2008–25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

[13] A list of the current members and affiliate members of ISG can be found at *http://www.isgportal.com*.

[14] NYSE Arca Equities Rule 9.2(a) provides that an ETP Holder, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that the ETP Holder believes would be useful to make a recommendation.

[15] 15 U.S.C. 78f(b)(5).

submissions should refer to File Number SR–NYSEArca–2008–25 and should be submitted on or before March 26, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4227 Filed 3–4–08; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11180 and #11181]

Nevada Disaster #NV–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of NEVADA dated 02/27/2008.

Incident: Earthquake.

Incident Period: 02/21/2008 and continuing.

Effective Date: 02/27/2008.

Physical Loan Application Deadline Date: 04/28/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 11/28/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Elko.

Contiguous Counties:

Nevada: Eureka, Humboldt, Lander, White Pine

Idaho: Cassia, Owyhee, Twin Falls

Utah: Box Elder, Tooele

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.500
Homeowners Without Credit Available Elsewhere	2.750
Businesses With Credit Available Elsewhere	8.000
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11180 2 and for economic injury is 11181 0.

The States which received an EIDL Declaration # are Nevada, Idaho, Utah.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 27, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–4214 Filed 3–4–08; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2008–0010]

Privacy Act of 1974 as Amended; Computer Matching Program; (SSA/Office of Personnel Management (OPM) Match Numbers 1005, 1019, 1020, 1021)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program which is scheduled to expire on April 6, 2008.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with OPM.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Deputy Commissioner for Budget, Finance and Management as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

[16] 17 CFR 200.30–3(a)(12).

Dated: February 20, 2008.

Mary Glenn-Croft,

Deputy Commissioner for Budget, Finance and Management.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Office of Personnel Management (OPM)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

The purpose of this agreement is to establish the conditions, terms and safeguards under which OPM agrees to the disclosure of civil service benefit and payment data to SSA. The old-age, survivors, disability insurance (OASDI), supplemental security income (SSI), and special veterans' benefits (SVB) programs administered by SSA will use the match results under this agreement. The OASDI programs are social insurance programs. The SSI program pays benefits to aged, blind and disabled recipients with incomes below levels established by law and regulations. The SVB program provides special benefits to certain World War II veterans. The results of the matching operations are used to determine SSI eligibility and to determine beneficiaries whose benefits should be reduced due to the Public Disability Benefit offset provision, the Windfall Elimination Provision, and the Government Pension Offset provision.

C. Authority for Conducting the Matching Program

The legal authority for SSA to conduct this matching activity for SSI purposes is contained in section 1631(e)(1)(B) and (f) of the Social Security Act (42 U.S.C. 1383(e)(1)(B) and (f)) and for the SVB program as authorized by section 806 of the Social Security Act (42 U.S.C. 1006). Section 224 of the Social Security Act, 42 U.S.C. 424a, provides for the reduction of Social Security disability benefits when the disabled worker is also entitled to a Public Disability Benefit. Sections 215(a)(7) and 215(d)(3) of the Social Security Act (42 U.S.C. 415(a)(7) and 415(d)(3)) provide for a modified benefit computation to be used for certain beneficiaries who are concurrently entitled to both Social Security benefits and a monthly periodic payment based in whole or in part on employment not covered by Social Security, including a civil service benefit. This modified benefit computation is called the Windfall Elimination Provision. Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) requires that SSA reduce the Social Security benefits of certain beneficiaries entitled to Social Security spouse's benefits who are also entitled to a government pension based on their own noncovered earnings. This reduction is referred to as Government Pension Offset.

D. Categories of Records and Individuals Covered by the Matching Program

Monthly, OPM will provide SSA with an electronic file containing civil service benefit and payment data from the annuity and survivor master file. The **Federal Register** designation for the OPM file is OPM/Central-1 Civil Service Retirement and Insurance Records. Pursuant to 5 U.S.C. 552a(b)(3), OPM has established routine uses to disclose the subject information to SSA.

Each record on the OPM file will be matched for Social Security Number (SSN) verification to SSA's Master Files of SSN Holders and SSN Applications. The **Federal Register** designation for the SSA file is Master Files of SSN Holders and SSN Applications, SSA/OSR, 60–0058. Those records verified will then be matched to SSA's SSI and SVB payment information maintained in the SSR and SVB. The **Federal Register** designation for the SSA file is SSR and SVB, SSA/OSR, 60–0103.

The file will also contain information about each new disability annuitant and annuitants whose disability benefits have changed from previous reports. The **Federal Register** designation for the OPM file is also OPM/Central-1 Civil Service Retirement and Insurance Records. Pursuant to 5 U.S.C. 552a(b)(3), OPM has established routine uses to disclose the subject information to SSA.

Each record on the OPM file will be matched for Social Security Number (SSN) verification to SSA's Master Files of SSN Holders and SSN Applications. The **Federal Register** designation for the SSA file is Master Files of SSN Holders and SSN Applications, SSA/OSR, 60–0058. Those records verified will then be matched to DI records on the MBR to identify DI beneficiaries who may be subject to PDB offset. Those records verified will also be matched to SSA's MBR for WEP and GPO purposes. The **Federal Register** designation for the SSA file is MBR, SSA/OSR, 60–0090.

This monthly file contains approximately 25,000 records. OPM will provide SSA with the entire master annuity file of approximately 2.7 million records once yearly for the month of the civil service cost-of-living allowance.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E8–4202 Filed 3–4–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6118]

In the Matter of the Designation of HARAKAT UL-JIHAD-I-ISLAMI/ BANGLADESH (HUJI-B) aka Islami Dawat-e-Kafela (IDEK), aka Harakat ul-Jihad e Islami Bangladesh, aka Harkatul Jihad al Islam, aka Harkatul Jihad, aka Harakat ul Jihad al Islami, aka Harkat ul Jihad al Islami, aka Harkat-ul-Jehad-al-Islami, aka Harakat ul Jihad Islami Bangladesh as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Harakat ul-Jihad-i-Islami/ Bangladesh (HUJI-B), aka Islami Dawat-e-Kafela (IDEK), aka Harakat ul-Jihad e Islami Bangladesh, aka Harkatul Jihad alIslam, aka Harkatul Jihad, aka Harakat ul Jihad al Islami, aka Harkat ul Jihad al Islami, aka Harkat-ul-Jehad-al-Islami, aka Harakat ul Jihad Islami Bangladesh.

Therefore, I hereby designate that organization and its aliases as a foreign terrorist organization pursuant to section 219 of the INA.

This designation shall be published in the **Federal Register**.

Dated: February 15, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–4254 Filed 3–4–08; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6117]

In the Matter of the Designation of HARAKAT UL-JIHAD-I-ISLAMI/BANGLADESH (HUJI-B) aka Islami Dawat-e-Kafela (IDEK), aka Harakat ul Jihad e Islami Bangladesh, aka Harkatul Jihad al Islam, aka Harkatul Jihad, aka Harakat ul Jihad al Islami, aka Harkat ul Jihad al Islami, aka Harkat-ul-Jehad-al-Islami, aka Harakat ul Jihad Islami Bangladesh as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the organization known as Harakat ul-Jihad-i-Islami/Bangladesh (HUJI-B), aka Islami Dawat-e-Kafela (IDEK), aka Harakat ul Jihad e Islami Bangladesh, aka Harkatul Jihad al Islam, aka Harkatul Jihad, aka Harakat ul Jihad al Islami, aka Harkat ul Jihad al Islami, aka Harkat-ul-Jehad-al-Islami, aka Harakat ul Jihad Islami Bangladesh has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 15, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–4259 Filed 3–4–08; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Government/Industry Air Traffic Management Advisory Committee.

DATES: The meeting will be held March 26, 2008 from 1 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn on the Hill, 415 New Jersey Avenue, NW., Washington, DC, 20001.

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 the Air Traffic Management Advisory Committee meeting.

NOTE: Non-Government attendees to the meeting must go through security and be escorted to and from the conference room. Attendees with laptops will be required to register them at the security desk upon arrival and departure. Agenda items will be posted on http://www.rtca.org Web site.

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 February 29, 2008.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 08–953 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting: RTCA Special Committee 210 Cabin Systems and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 210, Cabin Systems and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 210, Cabin Systems and Equipment.

DATES: The meeting will be held Apri1 1–3, 2008, from 9–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805 Washington, DC 20036, Colson Board Room.

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 210, Cabin Management Systems meeting. The agenda will include:

- April 1:
  - Opening Plenary Session (Welcome/Introductions/Administrative Remarks/Review of Agenda)
  - Approval of Summary of the Fifth meeting held January 29–31, 2008, RTCA Paper No. 042–08/SC210–011
  - PMC update
- Regulatory Update (Regulatory Agency):
  - FAA
  - Transport Canada
  - EUROCAE/ICAO
- Report from Working Group (WG Chairs):
  - Current status (accomplishments since last plenary)
  - Objectives for this plenary
  - Review of WG Project Schedule
- Report on Preliminary Industry Review Results:
  - Summary of complied results
- Overall direction for Committee:
  - Organizational Items; leadership, WG structure, etc.
  - Review of Committee Project Schedule
- Recess Plenary Meeting
- Break-up for Working Session:
  - Working Group 2, Cabin Management Function Classification
  - Committee-at-Large, Review/Incorporation of Preliminary Industry Review Results

- Close out of day's activities:
- Items for group discussion/ resolution
- Review of tomorrow's acclivities.
- April 2:
- Continue Working Group Session;
- Working Group 2, Cabin Management Function Classification Committee-at-Large, Review of Preliminary Industry Review Results
- Close out of day's activities;
- Items for group discussion/ resolution
- Review of tomorrow's activities
- April 3:
- Continue Working Group Session:
- Working Group 2, Cabin Management Function Classification Committee-at-Large, Review of Preliminary Industry Review Results
- Reconvene Plenary Meeting
- Reports from Working Session:
- Current status (accomplishments during plenary)
- Discussion/Resolution of outstanding issues
- Anticipated accomplishments by next plenary and plan to achieve
- Other Committee Business:
- Discussion of document creation and text writing assignments
- Document Structure/Review (Editor & Leadership Team)
- Review of Committee Project Schedule
- Terms and Reference—Review Status
- Assignment of Responsibilities
- Closing Plenary Session (Other Business, Establish Agenda for Next Meeting, Date, and Place of Next Meeting, 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 February 29, 2008.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 08–954 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket ID FMCSA–2008–0009]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions from the diabetes standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 56 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate commercial motor vehicles in interstate commerce.

DATES: Comments must be received on or before April 4, 2008.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2007–0009 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78; Apr. 11, 2000). This information is also available at *http://Docketinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 56 individuals listed in this notice have recently requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Ryan N. Adams

Mr. Adams, age 27, has had ITDM since 1994. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that

he does not have diabetic retinopathy. He holds a Class C operator's license from California.

Clay B. Anderson

Mr. Anderson, 33, has had ITDM since 2004. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Illinois.

Michael B. Bessinger

Mr. Bessinger, 45, has had ITDM since 2006. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bessinger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Douglas D. Brown

Mr. Brown, 48, has had ITDM since 1996. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Kenneth T. Clark

Mr. Clark, 46, has had ITDM since 1988. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

Joseph F. Colbert

Mr. Colbert, 54, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Colbert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Daniel E. Coufal

Mr. Coufal, 52, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coufal the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Stuart A. Dietz

Mr. Dietz, 58, has had ITDM since 2004. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dietz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Kansas.

John J. Durrence

Mr. Durrence, 56, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Durrence meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Michael B. Elzey

Mr. Elzey, 49, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Elzey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Wyoming.

Candy C. Eubank

Ms. Eubank, 40, has had ITDM since 1992. Her endocrinologist examined her in 2007 and certified that she has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Eubank meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2007 and certified that she does not have diabetic retinopathy. She holds an operator's license from Virginia.

Thomas S. Faucette, Jr.

Mr. Faucette, 48, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Faucette meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Earl S. Fibish

Mr. Fibish, 52, has had ITDM since 1977. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fibish meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Colorado.

Stanley R. Folkerts

Mr. Folkerts, 51, has had ITDM since 2004. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Folkerts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Minnesota.

Timothy L. Gahring

Mr. Gahring, 42, has had ITDM since 2004. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gahring meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Georgia.

Donald W. Giesbrecht

Mr. Giesbrecht, 57, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Giesbrecht meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Todd W. Gillespie

Mr. Gillespie, 39, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gillespie meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Stephen W. Golden

Mr. Golden, 41, has had ITDM since 2005. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Golden meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class 2 operator's license from Connecticut, which qualifies him to drive any motor vehicle, except a commercial motor vehicle, an articulated vehicle, or combination of motor vehicle and trailer where the gross weight of the trailer is more than 10,000 pounds.

Richard E. Grunden

Mr. Grunden, 44, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grunden meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Jack L. Guffey

Mr. Guffey, 68, has had ITDM since 2005. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Guffey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from South Dakota.

Mark Hall

Mr. Hall, 49, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Teresa M. Hansen

Ms. Hansen, 41, has had ITDM since 2004. Her endocrinologist examined her in 2007 and certified that she has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Hansen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2007 and certified that she does not have diabetic retinopathy. She holds a Class 2 operator's license from Connecticut, which qualifies her to drive any motor vehicle, except a commercial motor vehicle, an articulated vehicle, or combination of motor vehicle and trailer where the gross weight of the trailer is more than 10,000 pounds.

Jason A. Henry

Mr. Henry, 35, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Henry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Michael B. Heuett

Mr. Heuett, 40, has had ITDM since 2003. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Heuett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

John M. Hickey

Mr. Hickey, 68, has had ITDM since 2006. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hickey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Joe Ibarra

Mr. Ibarra, 47, has had ITDM since 1999. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ibarra meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from California.

Anthony L. Lambert

Mr. Lambert, 58, has had ITDM since 2002. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lambert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Paul F. Lanich

Mr. Lanich, 60, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lanich meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Ronald M. Lavallee

Mr. Lavallee, 42, has had ITDM since 1970. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lavallee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

Eric R. Ledvina

Mr. Ledvina, 24, has had ITDM since 2005. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ledvina meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Kenneth L. Lefeld

Mr. Lefeld, 47, has had ITDM since 1990. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lefeld meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Steven J. Leite

Mr. Leite, 61, has had ITDM since 1974. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Leite meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Daryl G. Lewis

Mr. Lewis, 57, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

George A. Lucietto

Mr. Lucietto, 59, has had ITDM since 1989. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lucietto meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable proliferative diabetic retinopathy. He holds a Class B CDL from Florida.

Robert A. Manning

Mr. Manning, 41, has had ITDM since 1987. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Manning meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Ottis N. McCoy

Mr. McCoy, 27, has had ITDM since 2006. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Florida.

Joseph G. McDonald

Mr. McDonald, 47, has had ITDM since 2005. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDonald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Maryland.

Richard L. McDonald

Mr. McDonald, 37, has had ITDM since 2004. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDonald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

David D. Millard, Jr.

Mr. Millard, 43, has had ITDM since 2006. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Millard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Virginia.

Raymond E. Miller

Mr. Miller, 57, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Victor E. Millwood

Mr. Millwood, 41, has had ITDM since 1982. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Millwood meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Alabama.

Walter G. Minshall, II

Mr. Minshall, 46, has had ITDM since 1996. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Minshall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Colorado.

Alan J. Mitchell

Mr. Mitchell, 48, has had ITDM since 2001. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mitchell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Delaware.

Raymond P. Mora, Sr.

Mr. Mora, 51, has had ITDM since 2005. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mora meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

John M. Murray

Mr. Murray, 35, has had ITDM since 1974. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Murray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from New Jersey.

John R. Pile

Mr. Pile, 51, has had ITDM since 1958. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pile meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Indiana.

Forest T. Porter

Mr. Porter, 46, has had ITDM since 2001. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Porter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

John Rubillo

Mr. Rubillo, 58, has had ITDM since 1995. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rubillo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Jason E. Sanders

Mr. Sanders, 35, has had ITDM since 2006. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sanders meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

Christopher D. Singleton

Mr. Singleton, 48, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Singleton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have

diabetic retinopathy. He holds a Class A CDL from Missouri.

Brian Slover

Mr. Slover, 31, has had ITDM since 1991. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Slover meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

Steven T. Slowey

Mr. Slowey, 48, has had ITDM since 1992. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Slowey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

Jacob A. Small

Mr. Small, 51, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Small meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Richard S. Synakowski

Mr. Synakowski, 46, has had ITDM since 2007. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Synakowski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Sabrina F. Thomas

Ms. Thomas, 36, has had ITDM since 2007. Her endocrinologist examined her in 2007 and certified that she has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2007 and certified that she does not have diabetic retinopathy. She holds a Class C operator's license from Pennsylvania.

Scott D. Wimer

Mr. Wimer, 43, has had ITDM since 1973. His endocrinologist examined him in 2007 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wimer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2007 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Oklahoma.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the dates section of the Notice.

On October 19, 2007, FMCSA published in a notice of final disposition that the Agency was unable to make a final determination regarding Mr. Ronald C. Vertucci, Jr.'s application for a Federal diabetes exemption until additional medical information was submitted. The Agency has received and reviewed this information and has made a decision to grant Mr. Vertucci the exemption.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 Notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 Notice, except as modified by the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

[1] Section 4129(a) refers to the 2003 Notice as a ''final rule.'' However, the 2003 Notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

Dated: February 26, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–4191 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–5578, FMCSA–99–6156, FMCSA–99–6480, FMCSA–00–7363, FMCSA–01–9258, FMCSA–03–16564, FMCSA–05–23238, FMCSA–06–23773]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 34 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 14, 2008. Comments must be received on or before April 4, 2008.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–99–5578, FMCSA–99–6156, FMCSA–99–6480, FMCSA–00–7363, FMCSA–01–9258, FMCSA–03–16564, FMCSA–05–23238, FMCSA–06–23773, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78; Apr. 11, 2000). This information is also available at *http://DocketInfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 34 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 34 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Scott E. Ames
Otto J. Ammer, Jr.
Nick D. Bacon
Mark A. Baisden
Johnny W. Bradford
Lawrence M. Daley
Clifford H. Dovel
Ray L. Emert
Arthur L. Fields
John W. Forgy
Daniel R. Franks
Glenn E. Gee
Rupert G. Gilmore, III
Albert L. Gschwind
Walter R. Hardiman
George A. Hoffman, III
Laurent G. Jacques
Michael W. Jones
Matthew J. Konecki
Duane R. Krug
Paul E. Lindon
Jack D. Miller
Eric M. Moats, Sr.
Rick Moreno
Robert W. Nicks
Joseph S. Nix, IV
Monte L. Purciful
George S. Rayson
Luis F. Saavedra
Gerald M. Smith
Edward J. Sullivan
Steven Valley
Darel G. Wagner
Bernard J. Wood

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has

resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 34 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 51568; 67 FR 10475; 69 FR 8260; 71 FR 16410; 64 FR 54948; 65 FR 159; 67 FR 17102; 69 FR 17267; 71 FR 6824; 64 FR 68195; 65 FR 20251; 65 FR 45817; 65 FR 77066; 68 FR 1654; 70 FR 7545; 66 FR 17743; 66 FR 33990; 68 FR 35772; 71 FR 644; 68 FR 74699; 69 FR 10503; 71 FR 6829; 71 FR 5105; 71 FR 19600; 71 FR 6826; 71 FR 19602). Each of these 34 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 4, 2008.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 34 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 26, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–4192 Filed 3–4–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Award.

SUMMARY: The Federal Transit Administration (FTA) announces the selection of projects to be funded under Fiscal Year (FY) 2007 appropriations for the Tribal Transit Program (TTP), a program authorized by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA regional Tribal Liaison (Appendix A) for application-specific information and issues. For general program information, contact Lorna R. Wilson, Office of Transit Programs, at (202) 366–2053, e-mail: *Lorna.Wilson@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: The Tribal Transit Program (TTP) established by Section 3013 SAFETEA–LU, Pub. L. 109–49 (August 15, 2005), under 49 U.S.C. 5311(c) makes funds available to federally recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior for public transportation capital projects, operating costs and planning activities that are eligible costs under the Nonurbanized Area Formula Program (Section 5311).

A total of $10 million was made available for the program in FY 2007. A total of 75 applicants requested $21 million for new transit services, enhancement or expansion of existing transit services and planning studies including operational planning. FTA made project selections through a competitive process based on each applicant's responsiveness to the program evaluation criteria outlined in FTA's April 4, 2007, **Federal Register** Notice: Notice of Funding Availability and Solicitation for FY 2007 TTP (71 FR 16397). FTA evaluated applications for planning grants on a pass/fail basis, whereas FTA evaluated applications for start up and existing transit services on a numeric score system. FTA also took into consideration the current status of the FY 2006 grants for those tribes requesting multi-year funding. Because of the high demand, many applicants selected for funding will receive less funding than they requested to enable FTA to support an increased number of meritorious applications.

This notice only addresses FY 2007 funding for projects. Tribes that sought funding for a multi-year project in response to the FY 2007 solicitation must submit a new application in response to the FY 2008 Notice of Funding Availability (NOFA) in order to be considered for FY 2008 funding. The FY 2008 notice will be published in the spring of 2008.

The selected projects, providing $10 million to 65 tribes, break down as follows: $399,963 for transit planning studies and/or operational planning; $904,666 for startup projects for new transit service; and, $8,695,371 for enhancements or expansion of existing transit services. Each of the 65 awardees, as well as the applicants not selected for funding, will receive a letter explaining the funding decision. The successful applicants for FY 2007 are listed in Table 1.

Following publication of this notice, FTA's regional tribal liaison will contact each applicant selected for funding to discuss technical assistance/needs. In the event the contact information

provided in the FY 2007 application has changed, please contact your tribal liaison with the current information in order to expedite the grant award process.

Issued in Washington, DC, this 29th day of February, 2008.

James S. Simpson,

Administrator.

Appendix A—FTA Regional Offices and Tribal Transit Liaisons

Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine—Richard H. Doyle, FTA Regional Administrator, Volpe National Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Phone: (617) 494–2055, Fax: (617) 494–2865, Regional Tribal Liaison: Judi Molloy.

Region II—New York, New Jersey—Brigid Hynes-Cherin, FTA Regional Administrator, One Bowling Green, Room 429, New York, NY 10004–1415, Phone: (212) 668–2170, Fax: (212) 668–2136, Regional Tribal Liaison: Rebecca Reyes-Alicea.

Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC, Letitia Thompson, FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Phone: (215) 656–7100, Fax: (215) 656–7260.

Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico, Virgin Islands—Yvette G. Taylor, FTA Regional Administrator, 230 Peachtree St., N.W., Suite 800, Atlanta, GA 30303, Tel.: 404–865–5600, Fax: 404–865–5605, Regional Tribal Liaisons: Jamie Pfister and James Garland.

Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan—Marisol R. Simon, FTA Regional Administrator, 200 West Adams Street, Suite 320, Chicago, IL 60606–5232, Phone: (312) 353–2789, Fax: (312) 886–0351, Regional Tribal Liaisons: William Wheeler and Joyce Taylor.

Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma—Robert Patrick, FTA Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Phone: (817) 978–0550, Fax: (817) 978–0575, Regional Tribal Liaison: Lynn Hayes.

Region VII—Iowa, Nebraska, Kansas, Missouri—Mokhtee Ahmad, FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106, Phone: (816) 329–3920, Fax: (816) 329–3921, Regional Tribal Liaisons: Joni Roeseler and Cathy Monroe.

Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah—Terry Rosapep, FTA Regional Administrator, 12300 West Dakota Avenue, Suite 310, Lakewood, CO 80228–2583, Phone: (720) 963–3300, Fax: (720) 963–3333, Regional Tribal Liaisons: Jennifer Stewart and David Beckhouse.

Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam—Leslie Rogers, FTA Regional Administrator, 201 Mission Street, Suite 1650, San Francisco, CA 94105–1926, Phone: (415) 744–3133, Fax: (415) 744–2726, Regional Tribal Liaison: Lorraine Lerman.

Region X—Washington, Oregon, Idaho, Alaska—Richard Krochalis, FTA Regional Administrator, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Phone: (206) 220–7954, Fax: (206) 220–7959, Regional Tribal Liaisons: Bill Ramos and Annette Clothier.

BILLING CODE 4910–57–P

Table 1 – FY 2007 Tribal Transit Grant Recipients

Tribe	State	Planning	Enhancement	Start-up	Discretionary ID Number
Asa'Carsarmiut Tribal Council	AK			165,366	D2007-TRTR-001
Catawba Indian Nation	SC		225,000		D2007-TRTR-002
Choctaw Nation of Oklahoma	OK		158,000		D2007-TRTR-003
Cocopah Indian Tribe	AZ		211,200		D2007-TRTR-004
Coeur d'Alene Tribe	ID		225,000		D2007-TRTR-005
Confederated Salish and Kootenai Tribes	MT		250,000		D2007-TRTR-006
Confederated Tribes and Bands of the Yakama Nation's	WA		400,000		D2007-TRTR-007
Confederated Tribes of the Colvile Indian Reservation	WA		155,000		D2007-TRTR-008
Confederated Tribes of the Grand Ronde Community of Oregon	OR		198,110		D2007-TRTR-009
Confederated Tribes of the Umatilla Indian Reservation (CTUIR)	OR		150,000		D2007-TRTR-010
Cowlitz Indian Tribe	WA		200,000		D2007-TRTR-011
Eastern Band of Cherokee Nations	NC		172,900		D2007-TRTR-012
Fort Belknap Indian Community	MT		218,000		D2007-TRTR-013
Grand Portage Band of Chippewa Indians	MN		60,000		D2007-TRTR-014
Gulkana Village Council	AK		200,000		D2007-TRTR-015
Havasupai Tribe of the Havasupai Reservation	AZ	25,000			D2007-TRTR-016
Healy Lake Village	AK	25,000			D2007-TRTR-017
Houlton Band of Maliseet Indians	ME		57,017		D2007-TRTR-018
Indian Heath Services	CA		75,000		D2007-TRTR-019
Kalispel Tribe of Indians	WA		208,296		D2007-TRTR-020
Kenaitze Indian Tribe	AK	25,000			D2007-TRTR-021
Kiowa Tribe	OK		262,000		D2007-TRTR-022
Klamath Tribe	OR		150,000		D2007-TRTR-023
Lac Courte Oreilles Tribe	WI		161,632		D2007-TRTR-024
Little Traverse Bay Bands of Odawa Indians	MI	25,000			D2007-TRTR-025
Lower Brule Sioux Tribe call	SD		150,000		D2007-TRTR-026
Lummi Tribe of the Lummi Reservation	WA		200,000		D2007-TRTR-027
Manley Village Council	AK	25,000			D2007-TRTR-028
Menominee Indian Tribe of Wisconsin	WI		150,000		D2007-TRTR-029
Mississippi Band of Choctaw Indians	MS	25,000			D2007-TRTR-030
Muscogee (Creek) Nation	OK		225,000		D2007-TRTR-031
Nenana Native Council	AK	25,000			D2007-TRTR-032
Nez Perce Tribe of Idaho	ID		250,000		D2007-TRTR-033
Northway Village	AK	25,000			D2007-TRTR-034
Oglala Sioux Tribe	SD		150,000		D2007-TRTR-035
Omaha Tribe of Nebraska	NE	25,000			D2007-TRTR-036
Orutsaramiut Native Council	AK		136,370		D2007-TRTR-037
Ponca Tribe Nebraska	NE			216,500	D2007-TRTR-038

Table 1 – FY 2007 Tribal Transit Grant Recipients

Tribe	State	Planning	Enhancement	Start-up	Discretionary ID Number
Ponca Tribe of Oklahoma	OK		207,119		D2007-TRTR-039
Pueblo of Santa Ana	NM		240,221		D2007-TRTR-040
Red Lake Band of Chippewa Indians	MN		200,000		D2007-TRTR-041
Reservation Transportation Authority	CA		425,104		D2007-TRTR-042
Robinson Rancheria	CA	25,000			D2007-TRTR-043
Rosebud Sioux Tribe	SD	25,000			D2007-TRTR-044
Sac and Fox Nation	OK	25,000			D2007-TRTR-045
Sac and Fox Tribe of the Mississippi in Iowa	IA	24,963			D2007-TRTR-046
San Carlos Apache Tribe	AZ		200,000		D2007-TRTR-047
Santee Sioux Nation	NE			195,800	D2007-TRTR-048
Seminole Nation	OK		220,000		D2007-TRTR-049
Snoqualmie Tribe	WA		250,130		D2007-TRTR-050
Standing Rock Sioux Tribe	ND		225,000		D2007-TRTR-051
Stillaguamish Tribe of Indians	WA		94,355		D2007-TRTR-052
Susanville Indian Rancheria	CA		206,082		D2007-TRTR-053
Tetlin Village Council	AK	25,000			D2007-TRTR-054
The Bishop Paiute Tribe	CA		55,000		D2007-TRTR-055
The Blackfeet Tribe	MT		107,820		D2007-TRTR-056
The Chickasaw Nation	OK		315,234		D2007-TRTR-057
The Citizen Potawatomi Nation	OK		275,774		D2007-TRTR-058
The Miami Tribe of Oklahoma	OK		154,760		D2007-TRTR-059
The Sitka Tribe	AK		172,900		D2007-TRTR-060
Turtle Mountain Band of Chippewa Indians	ND		225,000		D2007-TRTR-061
United Keetoowah Band	OK			327,000	D2007-TRTR-062
Walatowa Pueblo of Jemez	NM	25,000			D2007-TRTR-063
White Mountain Apache Tribe	AZ	25,000			D2007-TRTR-064
Yurok Tribe	CA		122,347		D2007-TRTR-065
TOTAL $10,000,000		**$399,963**	**$8,695,371**	**$904,666**	

[FR Doc. 08–967 Filed 3–4–08; 8:45 am]
BILLING CODE 4910–57–C

DEPARTMENT OF THE TREASURY

United States Mint

Notification of 2008 American Eagle Gold Proof and 2008 Elizabeth Monroe First Spouse Gold Coin Pricing

SUMMARY: The United States Mint is setting prices for 2008 American Eagle Gold Coins and the 2008 Elizabeth Monroe First Spouse Gold Coin.

Pursuant to the authority that 31 U.S.C. 5111(a) and 5112(a)(7–11), & (o) grant the Secretary of the Treasury to mint and issue gold coins, and to prepare and distribute numismatic items, the United States Mint will mint and issue American Eagle Gold Proof Coins and the 2008 Elizabeth Monroe First Spouse Gold Coin.

The 2008 American Eagle Gold Proof Coins will be available in four proof denominations with the following weights: One-ounce, one-half ounce, one-quarter ounce, one-tenth ounce. The United States Mint also produces an American Eagle four-coin set that contains one coin of each denomination. The 2008 Elizabeth Monroe First Spouse Gold Coin will be available in a one-half ounce version.

In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is setting the price of these coins to reflect recent increases in the market price of gold.

Accordingly, the United States Mint will make available the following 2008 American Eagle Proof Gold Coins and the 2008 Elizabeth Monroe First Spouse Gold Coin according to the following price schedule:

Description	Price
Elizabeth Monroe First Spouse Gold Coin:	
Proof One-Half Ounce	$619.95
Uncirculated One-Half Ounce	599.95
2008 American Eagle Gold Coins:	
One-ounce gold proof coin	1,199.95
One-half ounce gold proof coin	609.95
One-quarter ounce gold proof coin	329.95
One-tenth ounce gold proof coin	149.95
Four-coin gold proof set	2,199.95

FOR FURTHER INFORMATION CONTACT: Gloria C. Eskridge, Associate Director for Sales and Marketing; United States Mint; 801 Ninth Street, NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: February 28, 2008.

Daniel Shaver,

Acting Deputy Director, United States Mint.

[FR Doc. E8–4108 Filed 3–4–08; 8:45 am]

BILLING CODE 4810–02–P

Corrections

Federal Register
Vol. 73, No. 44
Wednesday, March 5, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 60

[Docket No. FAA–2002–12461; Notice No. 07–14]

RIN 2120–AJ12

Flight Simulation Training Device Initial and Continuing Qualification and Use

Correction

In proposed rule document 07–4884 beginning on page 59600 in the issue of Monday, October 22, 2007, make the following correction:

1. On page 59670, in Table A3A, entry 2.b. is corrected as follows:

TABLE A3A.—FUNCTIONS AND SUBJECTIVE TESTS

<<<QPS requirements>>>										
Number	Operation tasks						Simulator level			
							A	B	C	D
	Tasks in this table are subject to evaluation if appropriate for the airplane simulated as indicated in the SOQ Configuration List or the level of simulator qualification involved. Items not installed or not functional on the simulator and, therefore, not appearing on the SOQ Configuration List, are not required to be listed as exceptions on the SOQ.									
*	*	*	*	*	*	*		*		
2.b.	Pushback/Powerback							X	X	X
*	*	*	*	*	*	*		*		

2. On page 59684, the heading to Table A3F is corrected as follows:

TABLE A3F.—FUNCTIONS AND SUBJECTIVE TESTS

<<<QPS requirements>>>										
Number	Special effects						Simulator level			
							A	B	C	D
*	*	*	*	*	*	*		*		

3. Beginning on page 59718, in Table B2A, entries 2.a.3.a. and 2.c.9.a. are corrected as follows:

TABLE B2A.—FLIGHT TRAINING DEVICE (FTD) OBJECTIVE TESTS

<<<QPS requirements>>>							<<Information>>
Test		Tolerances	Flight conditions	Test details	FTD level		
Number	Title				5	6	Notes
*	*	*	*	*	*		*
2.a.3.a. ..	Rudder Pedal Position vs. Force and Surface Position Calibration.	±5 lb (2.2 daN) breakout, ±10% or ±5 lb (2.2 daN) force, ±2° rudder angle.	Ground	Record results for an uninterrupted control sweep to the stops.		X	
*	*	*	*	*	*		*
2.c.9.a. ..	Phugoid Dynamics ..	±10% period, ±10% of time to ½ or double amplitude or ±.02 of damping ratio.	Cruise	The test must include whichever is less of the following: Three full cycles (six overshoots after the input is completed), or the number of cycles sufficient to determine time to ½ or double amplitude.		X	
*	*	*	*	*	*		*

4. Beginning on page 59842, in Table D1A, entry 2.c. is corrected as follows:

TABLE D1A.—MINIMUM FTD REQUIREMENTS

<<<QPS requirements>>>						<<Information>> notes
Number	General FTD requirements	FTD level				
		4	5	6	7	
*	*	*	*			*
2.c.	Relative responses of the flight deck instruments must be measured by latency tests or transport delay tests, and may not exceed 150 milliseconds. The instruments must respond to abrupt input at the pilot's position within the allotted time, but not before the time that the helicopter or set of helicopters would respond under the same conditions.. • Latency: The FTD instrument and, if applicable, the motion system and the visual system response must not be prior to that time when the helicopter responds and may respond up to 150 milliseconds after that time under the same conditions. • Transport Delay: As an alternative to the Latency requirement, a transport delay objective test may be used to demonstrate that the FTD system does not exceed the specified limit. The sponsor must measure all the delay encountered by a step signal migrating from the pilot's control through all the simulation software modules in the correct order, using a handshaking protocol, finally through the normal output interfaces to the instrument display and, if applicable, the motion system, and the visual system. An objective test is required.		X	X	X	The intent is to verify that the FTD provides instrument cues that are, within the stated time delays, like the helicopter responses. For helicopter response, acceleration in the appropriate, corresponding rotational axis is preferred.
*	*	*	*			*

[FR Doc. C7–4884 Filed 3–4–08; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
March 5, 2008

Part II

The President

Proclamation 8223—Irish-American Heritage Month, 2008

Proclamation 8224—National Consumer Protection Week, 2008

Federal Register
Vol. 73, No. 44
Wednesday, March 5, 2008

Presidential Documents

Title 3—

The President

Proclamation 8223 of February 29, 2008

Irish-American Heritage Month, 2008

By the President of the United States of America

A Proclamation

Since the earliest days of our Republic, Irish Americans have enriched our culture with their faith, values, and hard work. During the month of March, we celebrate the contributions of Americans who trace their ancestry back to Ireland's shores.

Many of the sons and daughters of Erin came to America fleeing famine and poverty. They came with dreams of opportunity, and they helped to build our democracy and advance the cause of liberty. Irish Americans in all walks of life have made lasting contributions to our Nation, and we honor the service of Irish Americans in America's Armed Forces. Throughout our history, those claiming Irish ancestry have helped shape and strengthen America, including as signers of the Declaration of Independence and as Presidents of the United States.

This month, we celebrate the patriotic and proud people who originated from the Emerald Isle and who have played a vital role in the story of this Nation of immigrants.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2008 as Irish-American Heritage Month. I call upon all Americans to observe this month by celebrating the contributions of Irish Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–976
Filed 3–4–08; 8:55 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8224 of February 29, 2008

National Consumer Protection Week, 2008

By the President of the United States of America

A Proclamation

As we face new challenges in the 21st century, we must work to ensure that Americans are kept safe in the marketplace. During National Consumer Protection Week, as my Administration works with Congress to improve our consumer product safety system, we also encourage Americans to make informed financial decisions and take advantage of the resources that can help them become responsible consumers, savers, and investors.

This year's theme for National Consumer Protection Week, ''Financial Literacy: A Sound Investment,'' encourages consumers to take steps to build a firm financial foundation. By becoming informed consumers, individuals can help plan for their future, protect their identity, and effectively manage their finances. It is important for citizens to be knowledgeable on financial matters such as choosing a health insurance plan, comparing savings and retirement plans, and realizing how credit scores can affect them. Education is the first line of defense in helping consumers manage their money wisely and safeguard themselves against fraud and identity theft.

My Administration is working to expand the American people's financial education. In January of this year, I signed an Executive Order establishing the President's Advisory Council on Financial Literacy. This Council will help keep America competitive and assist Americans in understanding and addressing financial matters. By visiting consumer.gov and mymoney.gov, Americans can discover the tools they need to make financial decisions and be successful in today's marketplace.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2 through March 8, 2008, as National Consumer Protection Week. I call upon Government officials, industry leaders, and consumer advocates to make available information about how citizens can help to prevent fraud and identity theft, and I encourage all Americans to gain the financial literacy they need to compete in the 21st century.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–977
Filed 3–4–08; 8:55 am]
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Federal Register

Wednesday,
March 5, 2008

Part III

The President

Notice of March 4, 2008—Continuation of the National Emergency With Respect to Zimbabwe

Federal Register
Vol. 73, No. 44
Wednesday, March 5, 2008

Presidential Documents

Title 3—

The President

Notice of March 4, 2008

Continuation of the National Emergency With Respect to Zimbabwe

On March 6, 2003, by Executive Order 13288, I declared a national emergency and blocked the property of persons undermining democratic processes or institutions in Zimbabwe, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). I took this action to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions have contributed to the deliberate breakdown in the rule of law in Zimbabwe, politically motivated violence and intimidation, and political and economic instability in the southern African region. On November 22, 2005, I issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288 by ordering the blocking of the property of additional persons undermining democratic processes or institutions in Zimbabwe.

Because the actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States, the national emergency declared on March 6, 2003, and the measures adopted on that date and on November 22, 2005, to deal with that emergency, must continue in effect beyond March 6, 2008. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions.

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

THE WHITE HOUSE,
March 4, 2008.

[FR Doc. 08–980
Filed 3–4–08; 11:38 am]
Billing code 3195–01–P

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Cameron Gulbransen Kids Transportation Safety Act of 2007 (Feb. 28, 2008; 122 Stat. 639)

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H.R. 5264/P.L. 110–191

Andean Trade Preference Extension Act of 2008 (Feb. 29, 2008; 122 Stat. 646)

H.R. 5478/P.L. 110–192

To provide for the continued minting and issuance of certain $1 coins in 2008. (Feb. 29, 2008; 122 Stat. 648)

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