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

WHEN: Tuesday, March 18, 2008
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741-6008



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Federal Register

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AF66

Small Business Size Standards; Adoption of Size Standards by 2007 North American Industry Classification System for Size Standards

AGENCY: Small Business Administration.

ACTION: Direct final rule; correcting amendment.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting the direct final rule it published in the **Federal Register** on August 29, 2007, that amended its Small Business Size Regulations by incorporating the Office of Management and Budget's (OMB) 2007 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards. The direct final rule published on August 29, 2007 established an incorrect small business size standard for NAICS 517919, All Other Telecommunications. The correct small business size standard is \$23.0 million in average annual receipts. Also, the descriptive titles for 19 NAICS codes are also being amended by this action. SBA is changing the industry descriptions in its table of size

standards so they will match the descriptions published by OMB in NAICS 2007.

DATES: *Effective Date:* March 11, 2008.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Program Analyst, Division of Size Standards, at (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: SBA published a direct final rule in the August 29, 2007 **Federal Register** (72 FR 49639) to amend its Small Business Size Regulations by incorporating the OMB 2007 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards.

In the direct final rule, SBA included Table 1 which provided rules for establishing size standards upon incorporating NAICS 2007 into its table of size standards. Rule #3 in Table 1 stated the following:

TABLE 1

If the NAICS 2007 industry is composed of	The size standard for the NAICS industry will be
3. More than one NAICS 2002 industry; parts of more than one NAICS 2002 industry; or one or more NAICS 2002 industry and part(s) of one or more NAICS 2002 industry, and they do not all have the same size standard.	The same size standard as for the NAICS 2002 industry or NAICS 2002 industry part(s) that most closely matches the economic activity described by the NAICS 2007 industry.

Applying Rule #3 from Table 1, SBA had indicated on pages 49642 and 49643 of the direct final rule that the small business size standard for NAICS 517919, All Other Telecommunications, would be \$23.0 million in average annual receipts. However, SBA incorrectly stated in item 2(n) on page 49644 that the small business size

standard is \$23.5 million in average annual receipts.

Because SBA properly applied Rule #3 from Table 1 of the direct final rule, the correct size standard is \$23.0 million, and this action corrects 13 CFR 121.201 to reflect the correct size standard.

In addition, SBA is correcting the Industry Descriptions for 19 NAICS industries in its table of size standards

to match the industry descriptions in NAICS 2007. Table 2, below, is a list of the NAICS codes with the titles as published in the August 29, 2007 **Federal Register**, and as corrected. The following changes to the industry descriptions do not affect any small business size standards; the small business size standards for these NAICS codes remain unchanged.

TABLE 2

NAICS code	Industry descriptions in August 29, 2007 Federal Register direct final rule	Industry descriptions corrected
112920	Horse and Other Equine Production	Horses and Other Equine Production.
311340	Non-Chocolate Confectionery Manufacturing	Nonchocolate Confectionery Manufacturing.
311613	Rendering and Meat By-Product Processing	Rendering and Meat Byproduct Processing.
322223	Plastics, Foil, and Coated Paper Bag Manufacturing	Coated Paper Bag and Pouch Manufacturing.
323118	Blankbook, Loose-leaf Binder and Device Manufacturing ...	Blankbook, Looseleaf Binders and Devices Manufacturing.
326111	Unsupported Plastics Bag Manufacturing	Plastics Bag and Pouch Manufacturing.
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing.	Plastics Packaging Film and Sheet (including Laminated) Manufacturing.
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing.	Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing.
326121	Unsupported Plastics Profile Shapes Manufacturing	Unlaminated Plastics Profile Shape Manufacturing.
326122	Plastics Pipe and Pipe Fitting Manufacturing	Plastics Pipe and Pipe Fitting Manufacturing.

TABLE 2—Continued

NAICS code	Industry descriptions in August 29, 2007 Federal Register direct final rule	Industry descriptions corrected
326130	Laminated Plastics Plate, Sheet and Shape Manufacturing	Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing.
331221	Cold-Rolled Steel Shape Manufacturing	Rolled Steel Shape Manufacturing.
485113	Bus and Motor Vehicle Transit Systems	Bus and Other Motor Vehicle Transit Systems.
522298	All Other Non-Depository Credit Intermediation	All Other Nondepository Credit Intermediation.
522320	Financial Transactions Processing, Reserve, and Clearing House Activities.	Financial Transactions Processing, Reserve, and Clearing-house Activities.
561330	Employee Leasing Services	Professional Employer Organizations.
721191	Bed and Breakfast Inns	Bed-and-Breakfast Inns.
812921	Photo Finishing Laboratories (except One-Hour)	Photofinishing Laboratories (except One-Hour).
812922	One-Hour Photo Finishing	One-Hour Photofinishing.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble to this rule, SBA amends 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

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

■ 2. Amend § 121.201, in the table “Small Business Size Standards by NAICS Industry” as follows:

■ a. Revise the industry description of NAICS code 112920 “Horses and Other Equine Production” to read “Horses and Other Equine Production”.

■ b. Revise the industry description of NAICS code 311340 “Non-Chocolate Confectionery Manufacturing” to read “Nonchocolate Confectionery Manufacturing”.

■ c. Revise the industry description of NAICS code 311613 “Rendering and Meat By-Product Processing” to read “Rendering and Meat Byproduct Processing”.

■ d. Revise the industry description of NAICS code 322223 “Plastics, Foil, and Coated Paper Bag Manufacturing” to read “Coated Paper Bag and Pouch Manufacturing”.

■ e. Revise the industry description of NAICS code 323118 “Blankbook, Loose-leaf Binders and Devices Manufacturing” to read “Blankbook, Looseleaf Binder and Device Manufacturing”.

■ f. Revise the industry description of NAICS code 326111 “Unsupported Plastics Bag Manufacturing” to read

“Plastics Bag and Pouch Manufacturing”.

■ g. Revise the industry description of NAICS code 326112 “Unsupported Plastics Packaging Film and Sheet Manufacturing” to read “Plastics Packaging Film and Sheet (including Laminated) Manufacturing”.

■ h. Revise the industry description of NAICS code 326113 “Unsupported Plastics Film and Sheet (except Packaging) Manufacturing” to read “Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing”.

■ i. Revise the industry description of NAICS code 326121 “Unsupported Plastics Profile Shapes Manufacturing” to read “Unlaminated Plastics Profile Shape Manufacturing”.

■ j. Revise the industry description of NAICS code 326122 “Plastics Pipe and Pipe Fitting Manufacturing” to read “Plastics Pipe and Pipe Fitting Manufacturing”.

■ k. Revise the industry description of NAICS code 326130 “Laminated Plastics Plate, Sheet and Shape Manufacturing” to read “Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing”.

■ l. Revise the industry description of NAICS code 331221 “Cold-Rolled Steel Shape Manufacturing” to read “Rolled Steel Shape Manufacturing”.

■ m. Revise the industry description of NAICS code 485113 “Bus and Motor Vehicle Transit Systems” to read “Bus and Other Motor Vehicle Transit Systems”.

■ n. Revise the Size standards in millions of dollars amount in the entry for 517919 to read “\$23.0”.

■ o. Revise the industry description of NAICS code 522298 “All Other Non-Depository Credit Intermediation” to read “All Other Nondepository Credit Intermediation”.

■ p. Revise the industry description of NAICS code 522320 “Financial Transactions Processing, Reserve, and Clearing House Activities” to read

“Financial Transactions Processing, Reserve, and Clearinghouse Activities”.

■ q. Revise the industry description of NAICS code 561330 “Employee Leasing Services” to read “Professional Employer Organizations”.

■ r. Revise the industry description of NAICS code 721191 “Bed and Breakfast Inns” to read “Bed-and-Breakfast Inns”.

■ s. Revise the industry description of NAICS code 812921 “Photo Finishing Laboratories (except One-Hour)” to read “Photofinishing Laboratories (except One-Hour)”.

■ t. Revise the industry description of NAICS code 812922 “One-Hour Photo Finishing” to read “One-Hour Photofinishing”.

Dated: March 4, 2008.

Arthur E. Collins,

Director, Government Contracting.

[FR Doc. E8–4788 Filed 3–10–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Part 9**

[T.D. TTB–66; Re: Notice No. 67]

RIN 1513–AB19

Establishment of the Lehigh Valley Viticultural Area (2005R–415P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the 1,888-square mile Lehigh Valley viticultural area in southeastern Pennsylvania in portions of Lehigh, Northampton, Berks, Schuylkill, Carbon, and Monroe Counties. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to

better identify wines they may purchase.

DATES: *Effective Date:* April 10, 2008.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; phone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area.

Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Lehigh Valley Viticultural Area

Background

John Skrip III, chairman of the Lehigh Wine Trail Appellation Committee submitted a petition to TTB proposing the establishment of the 1,888-square mile Lehigh Valley viticultural area in southeastern Pennsylvania. The proposed area is located approximately 45 miles north-northwest of Philadelphia and includes portions of Lehigh, Northampton, Berks, Schuylkill, Carbon, and Monroe Counties. TTB notes that the proposed Lehigh Valley viticultural area does not overlap any other viticultural area. As of 2005, the proposed viticultural area included 9 wineries and 13 vineyards with 220 acres devoted to viticulture, according to the petitioner. The petitioner notes that the distinguishing features of the proposed viticultural area include its rolling hills and a similar agricultural climate throughout.

The evidence submitted with the petition is summarized below.

Name Evidence

The petitioner explains that Lehigh Valley derives its name from the Lehigh River, which flows through the proposed viticultural area and into the Delaware River at Easton, Pennsylvania. The petitioner states that the word "Lehigh" originated with the Delaware Indians in the 1600s, who named the area "Lechauwekink," meaning an area with river forks. The petitioner notes that through a series of translations of the original Indian name, the name "Lehigh" now identifies the area. The petitioner also notes that the "Lehigh Valley" name applies to a much larger area than the immediate region

bordering the Lehigh River and is, in fact, associated with the entire proposed viticultural area.

The petitioner provides evidence for the use of the Lehigh or Lehigh Valley name throughout the proposed viticultural area by businesses, cities, schools, and the National Highway System. For example, Lehigh Street is a major thoroughfare in the city of Allentown, Lehigh University is located on the outskirts of Bethlehem, and the Lehigh Tunnel was constructed on the Northeast Extension of the Pennsylvania Turnpike, just north of the Lehigh County line. Also, two pages of the Lehigh Valley telephone book include nine columns of businesses located within the proposed viticultural area that use "Lehigh Valley" as part of the company name. The petition also includes brochures for inns, golf courses, covered bridges, a chamber orchestra, and a wine trail that use the Lehigh Valley name.

The January 11, 2005, edition of the Bethlehem, Pennsylvania, Express-Times newspaper claims on its front page that it is "The Lehigh Valley's fastest growing newspaper." An article in the business section of the March 31, 2002, edition of the Allentown Morning Call newspaper discusses the economic development of the Lehigh Valley area. The article notes that six community organizations incorporated "Lehigh Valley" in their names between 1984 and 2002, including the Lehigh Valley Convention and Visitors Bureau, the American Red Cross of the Greater Lehigh Valley, the United Way of Greater Lehigh Valley, and the Lehigh Valley Chamber of Commerce.

In addition, the petitioner provides copies of two regional magazines, "Lehigh Valley Style," dated March/April 2003, and "Lehigh Valley," dated July/August 2004. The "Lehigh Valley" magazine includes a full page advertisement for the Lehigh Valley Hospital in Allentown, Pennsylvania. Other petitioner evidence includes a toll receipt for the Lehigh Valley exit of the Pennsylvania Turnpike extension (Interstate 476) and a copy of the home page from the Lehigh Valley International Airport Web site. A U.S. post office and mail distribution center located off Route 22 between Allentown and Bethlehem is referred to as the Lehigh Valley Post Office, according to the petitioner.

Boundary Evidence

The proposed Lehigh Valley viticultural area encompasses the Lehigh River valley from the town of Jim Thorpe to the river's mouth at Easton, as well as the regions to the

northeast and southwest of the immediate river valley. In addition to the Lehigh River valley, the proposed viticultural area includes portions of the Schuylkill River valley in the southwest and the Brodhead River valley in the northeast. The proposed area also includes all or portions of the cities of Stroudsburg, Easton, Bethlehem, Allentown, and Reading, Pennsylvania.

Commercial grape growing started in the proposed Lehigh Valley viticultural area in 1974, the petitioner explains, when Vynecrest Winery and Clover Hill Winery started planting grapes. Two years later, Franklin Hill Winery planted grapes near Bangor in Northampton County.

The proposed viticultural area is oriented southwest to northeast in the approximate shape of a rectangle. The petitioner states that the proposed boundary runs for 92 miles along its northern side, 24 miles along its eastern side, 56 miles along its southern side, and 28 miles along its western side.

Along the proposed viticultural area's boundary in the north, a portion of the Appalachian ridge, including Second Mountain and Wildcat Mountain in Schuylkill County, Mauch Chunk Ridge, Bear Mountain, and Call Mountain in Carbon County, and a series of lower hills in Monroe County, separates the proposed area from the cooler

mountains of northeastern Pennsylvania.

To the east, between Stroudsburg and Easton, the Delaware River separates Pennsylvania from New Jersey and marks the eastern limit of the proposed Lehigh Valley viticultural area. The petitioner notes that the region of northwestern New Jersey bordering the proposed area is not considered part of the Lehigh Valley region. To the southeast, another long Appalachian mountain ridge, South Mountain, separates the proposed viticultural area from the immediate Philadelphia region.

To the west, the southwestern Berks County and Schuylkill County lines separate the Lehigh Valley region from the counties of south-central Pennsylvania, which is considered a separate geographical region of the State, according to the petitioner.

Distinguishing Features

The distinguishing features of the proposed Lehigh Valley viticultural area, according to the petitioner, include its rolling hills and a similar agricultural climate throughout. These features contrast with the regions to the north and south of the proposed viticultural area, according to the petitioner. To document these differences, the petitioner uses data collected from 1961 to 1996 by the United States Department of Agriculture and its Natural Resources

Conservation Service (NRCS). In addition, the petitioner submitted maps of Pennsylvania with information on soil moisture, soil temperature, frost-free periods, and agro-climatic regions.

Climate

The agricultural-climatic features of the proposed Lehigh Valley viticultural area include heat accumulation measurements of 2,601 to 3,000 annual degree days and an annual moisture surplus of 351 to 450 millimeters of water, as shown on the Agro-Climate Regions of Pennsylvania map submitted with the petition. (As a measurement of heat accumulation during the growing season, one degree day accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, which is the minimum temperature required for grapevine growth. See "General Viticulture," by Albert J. Winkler, University of California Press, 1974.)

The USGS and the NRCS integrate degree-days and annual moisture surplus data to identify regions of relatively homogeneous heat and moisture characteristics related to crop production. This information is shown on the Agro-Climate Regions of Pennsylvania map submitted with the petition and is summarized in the table below.

LEHIGH VALLEY AREA DEGREE DAY AND WATER BALANCES

	North of Lehigh Valley region	Lehigh Valley area	South of Lehigh Valley region
Growing season degree-days	1,801–2,600	2,601–3,000	3,001–3,400
Annual water balance (surplus)	451–550	351–450	351–450

The petitioner presents annual temperature data collected from 1975 to 2004 at three airports—one to the north of the proposed viticultural area, one to

the south of the proposed area, and one within the proposed area. The data, as summarized in the table below, shows differences in average annual

precipitation and temperatures, with a warming trend from north to south.

LEHIGH VALLEY AREA CLIMATIC TEMPERATURE DATA AVERAGES 1975–2004

Fahrenheit temperatures	Wilkes-Barre Scranton Airport (25 miles north of Lehigh Valley)	Lehigh Valley Airport (within the proposed viticultural area)	Philadelphia Inter- national Airport (45 miles south of Lehigh Valley)
Average High	58.8°	61.5°	64.4°
Average Mean	49.7°	51.7°	55.4°
Average Low	40.6°	42°	46.6°
Maximum High	94.4°	96.5°	97.3°
Minimum Low	–4.2°	0.7°	5.2°
Frequency of days below 5°	14	7	3
Average rain in inches	37.5"	43.6"	41.6"

The proposed Lehigh Valley viticultural area's growing season ranges from 161 to 180 consecutive frost-free

days, with the proposed area's southern portion having fewer days with frost than its northern portion, according to

the Frost-Free Period of Pennsylvania Landscapes map submitted with the petition. A frost-free period, based on 32

degrees Fahrenheit or above, the petitioner explains, represents the consecutive days from the final killing frost in the spring to the first killing frost in the fall. This 161- to 180-day timeframe defines the length of the regional growing season for most agronomic crops.

The region north of the proposed viticultural area, the petitioner states, is cooler during the growing season, with 1,801 to 2,600 degree days of heat accumulation. The region to the north also is wetter, with an annual surplus water balance of 451 to 550 millimeters of water. The higher elevations to the north of the Lehigh Valley region create a climate with cooler temperatures and more soil moisture retention. As evidence, the petitioner submitted the Agro-Climate Regions of Pennsylvania map, which shows a distinctively cooler and wetter climate north of the proposed Lehigh Valley viticultural area. Also, the meteorological data collected during the years 1975 to 2004 from the Wilkes-Barre Scranton International Airport, located 25 miles north of the proposed viticultural area, shows consistently lower temperatures than are found in the proposed viticultural area, with twice as many days dipping below 5 degrees Fahrenheit annually.

The petitioner describes the area to the south of the proposed viticultural area as marginally, yet consistently, warmer. Meteorological information included in the petition from the Philadelphia International Airport, 45 miles south of the Lehigh Valley, confirms that temperatures to the south of the proposed area are warmer by an average of 4 degrees Fahrenheit. The petitioner also explains that to the south of the proposed area the warmer temperatures, combined with different soils, create a longer grape-growing season and mature grapes with lower acidities and different flavors than those of the proposed Lehigh Valley viticultural area.

Areas to the east and west of the proposed Lehigh Valley viticultural area are, for geopolitical and social reasons, considered to be outside of the Lehigh Valley. Across the Delaware River to the east of the proposed viticultural area is the State of New Jersey. The petitioner states that the residents of this northwestern New Jersey region do not consider themselves to be a part of the Lehigh Valley region of Pennsylvania. The region to the west of the proposed viticultural area also is not considered to be part of the Lehigh Valley, according to the petitioner. The counties to the west of the proposed area considered by most to be part of south-

central Pennsylvania, which is often called "Pennsylvania Dutch Country."

Topography

The topography of the proposed Lehigh Valley viticultural area largely consists of rolling hills with elevations generally between 500 feet and 1,000 feet, according to the petitioner and the USGS maps provided. Creeks and several rivers flow through the region, while lakes dot the landscape, as shown on the USGS maps of the region. Also, a small portion of the proposed northeastern boundary area, along the foothills of the Blue Mountain range, rises to the 1,600-foot contour line. The Appalachian National Scenic Trail meanders through the proposed area's higher elevations, as shown on the USGS maps.

Beyond the northern boundary of the proposed viticultural area, the terrain transitions from the lower, rolling hills of the Lehigh Valley to higher foothills and mountains with elevations ranging from 1,000 feet to 1,900 feet. While the region southeast of the proposed viticultural area begins on the heights of South Mountain, the region quickly falls to the lower and flatter elevations of the Delaware River valley.

Soils

The petitioner states that the soils within the proposed Lehigh Valley viticultural area are mainly based on shale, sandstone, and siltstone. A 1972 Soil Conservation Service publication, General Soil Map—Pennsylvania, verifies that the area contains shale, sandstone, and siltstone. Soils to the south of the proposed area, according to the petitioner, are based on schist, gneiss, and porcelanite, rather than shale, limestone, and sandstone.

According to data submitted by the petitioner, a lack of soil moisture during the growing season puts the proposed Lehigh Valley viticultural area in the Typic Udic moisture regime (less than 90 days of drying), as determined by USGS and NRCS data and shown on the Soil Moistures Regimes of Pennsylvania Landscapes map. The petitioner explains that the region typically has a June through August dry season when the grape vines rely on stored moisture rather than rain.

The estimated annual mean soil temperature of the proposed viticultural area is Typic Mesic, ranging from 10.5 degrees Centigrade, or 50.9 degrees Fahrenheit, to 12.0 degrees Centigrade, or 54 degrees Fahrenheit. This information is based on temperatures at 20 inches below the soil surface and shown on the Soil Moistures Regimes of Pennsylvania Landscapes map.

Geology

The geology of the proposed Lehigh Valley viticultural area, as depicted on the Geologic Map of Pennsylvania, Commonwealth of Pennsylvania, Conservation and Natural Resources, Bureau of Topographic and Geologic Survey, revised in 2000, includes Ordovician features in the south and Permian features in the north. The Ordovician geology, predominantly consisting of shale, limestone, dolomite, and sandstone, dates back 430 million to 500 million years. The Permian geology, dating back 250 million to 290 million years, consists of coal, in addition to the sandstone, shale, and limestone that is similar to that found in the Ordovician geology to the south of the proposed viticultural area.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 67 regarding the proposed Lehigh Valley viticultural area in the **Federal Register** (71 FR 65437) on November 8, 2006. We received no comments in response to that notice.

TTB Finding

After careful review of the petition, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the Lehigh Valley American viticultural area in southeastern Pennsylvania in portions of Lehigh, Northampton, Berks, Schuylkill, Carbon, and Monroe Counties, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "Lehigh Valley," is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. In addition, the name "Lehigh" standing alone will be considered a term of viticultural significance because

consumers and vintners could reasonably attribute the quality, reputation, or other characteristic of wine made from grapes grown in the Lehigh Valley viticultural area to the name Lehigh itself. The text of the new regulation clarifies these points. Consequently, wine bottlers using “Lehigh Valley” or “Lehigh” in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area’s full name or “Lehigh” as an appellation of origin.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term specified as having viticultural significance in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term of viticultural significance as an appellation of origin and that name or other term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term of viticultural significance appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N. A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Amend subpart C by adding § 9.210 to read as follows:

§ 9.210 Lehigh Valley.

(a) *Name.* The name of the viticultural area described in this section is “Lehigh Valley”. For purposes of part 4 of this chapter, “Lehigh Valley” and “Lehigh” are terms of viticultural significance.

(b) *Approved maps.* The seven United States Geological Survey 1:50,000 scale topographic maps used to determine the boundary of the Lehigh Valley viticultural area are titled:

- (1) Berks County, Pennsylvania, 1978;
- (2) Schuylkill County (West Half), Pennsylvania, 1979;
- (3) Schuylkill County (East Half), Pennsylvania, 1979;
- (4) Carbon County, Pennsylvania, 1991;
- (5) Monroe County, Pennsylvania, 1980;
- (6) Northampton County, Pennsylvania, 1981; and
- (7) Lehigh County, Pennsylvania, 1987.

(c) *Boundary.* The Lehigh Valley viticultural area is located in portions of Lehigh, Northampton, Berks, Schuylkill, Carbon, and Monroe Counties, Pennsylvania. The boundary of the proposed Lehigh Valley viticultural area is as described below:

(1) The beginning point is on the Berks County map at the intersection of the Berks-Lancaster County line and the single-track Conrail rail line located near Cacoosing Creek in South Heidelberg Township;

(2) From the beginning point, proceed northwest along the Berks County line and, crossing onto the Schuylkill County (West Half) map, continue northwest along the Schuylkill-Lebanon County line to the county line’s intersection with the northern boundary of Pine Grove township; then

(3) Proceed northeast along the northern boundary of Pine Grove, Washington, and Wayne Townships and, crossing onto the Schuylkill County (East Half) map, continue along the northern boundary of Wayne Township to the northeast corner of that township, then

(4) Proceed east-northeasterly in a straight line to the confluence of Beaver Creek and Cold Run at the northeast corner of State Game Lands No. 222 in Walker township; then

(5) Proceed north-northeasterly in a straight line to the 1,402-foot elevation point on Wildcat Mountain in Walker township; then

(6) Proceed easterly in a straight line, crossing onto the Carbon County map, and continue to Bench Mark (BM) 1032 located on Highway 902, south of the village of Bloomingdale; then

(7) Proceed east-northeasterly in a straight line to BM 555 located immediately east of the Lehigh River in the city of Jim Thorpe; then

(8) Proceed east-northeasterly in a straight line to the northern most point of Lehighton Reservoir; then

(9) Proceed east-northeasterly in a straight line to the western end of the dam at the Penn Forest Reservoir; then

(10) Proceed easterly in a straight line and, crossing onto the Monroe County map, continue to the 847-foot elevation point located at the intersection of Highway 534 and an unnamed road locally known as Dotters Corner Road in Polk township; then

(11) Proceed east-northeasterly in a straight line to the intersection of Highway 115 and an unnamed secondary road locally known as Astolat Road immediately north of the village of Effort; then

(12) Proceed east-northeasterly in a straight line to St. Johns Cemetery, located along Appenzell Creek northwest of the village of Neola; then

(13) Proceed straight northeast to the intersection of Interstate 80 and an unnamed road locally known as Hamilton Turnpike at the town of Bartonville; then

(14) Proceed east-southeast along Interstate 80 through Stroudsburg to the west bank of the Delaware River; then

(15) Proceed south (downstream) along the west bank of the Delaware River, and, crossing onto the Northampton County map, continue south along the west bank of the Delaware River to the mouth of Lehigh River at Easton; then

(16) Proceed southwesterly (upstream) along the south bank of the Lehigh River, and crossing onto the Lehigh County map, continue along the south

bank of the Lehigh River to the mouth of Jordan Creek in Allentown; then

(17) Proceed westerly (upstream) along Jordan Creek to the first railroad bridge over the creek, and then, following the Conrail rail line on that bridge, proceed southerly along the Conrail rail line (paralleling Trout Creek at first) through Emmaus, Macungie, and Alburtis, and continue along the rail line to the Lehigh-Berks County line; then

(18) Crossing onto the Berks County map, continue southerly along the Conrail rail line through Mertztown, Topton, Lyons, Fleetwood, Blandon, and Muhlenburg to the Conrail rail bridge across the Schuylkill River in Reading; then

(19) Following the Conrail rail line on the Schuylkill River bridge, proceed southerly along the rail line through Wyomissing to the rail line's junction with a single-track Conrail rail line in Sinking Springs; then

(20) From the Conrail rail line junction in Sinking Springs, follow the single track Conrail rail line through Montello, Fritztown, and Vinemont, and return to the beginning point.

Signed: April 4, 2007.

John J. Manfreda,
Administrator.

Approved: November 16, 2007.

Timothy E. Skud,
Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

Editorial Note: This document was received at the Office of the Federal Register on March 6, 2008.

[FR Doc. E8-4786 Filed 3-10-08; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-65; Re: Notice No. 61]

RIN 1513-AB23

Expansion of the Alexander Valley Viticultural Area (2005R-501P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision expands the Alexander Valley viticultural area in Sonoma County, California, by 1,300 acres along its northwestern boundary line. We designate viticultural areas to allow vintners to better describe the origin of

their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date:* April 10, 2008.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

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Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-

growing region as a viticultural area. Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Alexander Valley Viticultural Area Expansion Petition

Background

Patrick Shabram of Shabram, Inc., with the support of vineyard owner Anthony Martorana, proposes a 1,300-acre expansion of the Alexander Valley viticultural area (27 CFR 9.53) along the current diagonal northwestern boundary line. The expansion would result in a viticultural area of 67,710 acres.

The proposed expansion area starts 1 mile south-southwest of Cloverdale and continues south for another 2 miles, according to the USGS Cloverdale Quadrangle map and written boundary description submitted by the petitioner. The shape of the proposed expansion area resembles a triangle with one side running along the Alexander Valley viticultural area's existing diagonal northwestern boundary line.

According to the petitioner, Seven Arches Vineyards straddles that diagonal northwestern boundary line, with about 10 acres outside of the existing Alexander Valley viticultural area. The proposed expansion area, the petitioner continues, would incorporate into the Alexander Valley viticultural area all of Seven Arches Vineyards and the entire 20 acres of Icaria Vineyards, both of which are located along Hiatt Road and Icaria Creek. Another vineyard, Jeke Vineyards, lies immediately inside the existing boundary line, according to a petition map outlining the vineyards of the area. The table below explains the relationship of these three vineyards to

the existing diagonal northwestern boundary line of the Alexander Valley viticultural area.

Vineyard name (Icaria Creek and Hiatt Road areas)	Vineyard location
Jeke Vineyards	1/10 mile inside of the boundary line.
Seven Arches Vine- yards.	Straddles the bound- ary line.
Icaria Vineyards	4/10 mile outside of the boundary line.

Shortly after the establishment of the original viticultural area, the petitioner states, some wine industry members erroneously believed that the proposed expansion area already lay inside the Alexander Valley viticultural area boundary. As an example, the petitioner states that Jade Mountain Vineyards labeled a 1985 Icaria Vineyards wine with the Alexander Valley viticultural area name, while a map submitted with the petition shows Icaria Vineyards as lying within the proposed expansion area.

We summarize below the evidence presented in the petition in support of the proposed expansion of the Alexander Valley viticultural area.

Name Evidence

The proposed expansion area is historically identified with Cloverdale, a town located at the northern end of the Alexander Valley viticultural area. In his "History of the Sonoma Viticultural District," Nomis Press, 1998, pages 186–187, Ernest P. Peninou notes that in 1890 Parker Vineyards was established in the proposed expansion area. The author identifies Parker Vineyards as a part of the viticultural history of Cloverdale. The petitioner explains that vineyards in the Cloverdale area, except for the two vineyards in the proposed expansion area, lie within the boundaries of the currently established Alexander Valley viticultural area.

An article entitled "The Early Wineries of the Cloverdale Area," by William A. Cordtz, PhD, which ran in the March/April 1985 edition of *Wine West*, states that grape growing started in Cloverdale before it began in other areas of the Alexander Valley. It explains that viticulture in the upper Alexander Valley centered around Cloverdale, flourishing between 1880 and Prohibition. Also, the Cloverdale Reveille, a local area newspaper, ran articles about grape growing, and in 1878 reported prices of local grapes at \$8 per ton.

Boundary Evidence

On October 24, 1984, the Bureau of Alcohol, Tobacco, and Firearms (ATF), our predecessor agency, published T.D. ATF–187 (49 FR 42724), the final rule establishing the Alexander Valley viticultural area. Several groups of petitioners had proposed differing boundaries for that viticultural area. Ultimately, in the final rule ATF established the boundary of the Alexander Valley viticultural area as encompassing an area from southeast of Healdsburg to north of Cloverdale in Sonoma County.

Since the establishment of the Alexander Valley viticultural area, ATF has published four other final rules, all revising the boundaries of the viticultural area. In T.D. ATF–233 (51 FR 30354, August 26, 1986), ATF expanded the southern boundary of the viticultural area to include an area known as Digger Bend, and extended the northeastern corner boundary to include newly planted vineyards. In T.D. ATF–272 (53 FR 17022, May 13, 1988), ATF adjusted the shared border of the Chalk Hill and Alexander Valley viticultural areas, and expanded the southeastern corner of the Alexander Valley viticultural area to include vineyards previously located immediately within the Chalk Hill viticultural area. In T.D. ATF–300 (55 FR 32402, August 9, 1990), ATF amended the eastern and northeastern boundary of the Alexander Valley viticultural area to encompass a nearby mountainous area. In T.D. ATF–486 (66 FR 50564, October 4, 2001), ATF realigned a small portion of the western boundary of the Alexander Valley viticultural area along the border shared with the Dry Creek viticultural area to encompass the Gill Creek watershed. However, not one of those revisions is related to the boundary of the expansion in this final rule.

The current Alexander Valley viticultural area's western boundary line trends northwest-southeast, connecting section 24, T. 11 N., R. 11 W. to a point on the map at 38°45' latitude and 123°00' longitude in section 5, T. 10 N., R. 10 W., on the USGS Cloverdale Quadrangle map. The expansion area would incorporate into the current viticultural area a triangular-shaped area west of its western boundary line.

The petitioner provided a map of the Alexander Valley viticultural area published by the Sonoma County Grape Growers Association in 1998. The map shows the current viticultural area boundaries and displays the vineyards within the proposed expansion area with the same shade of dark green used

for the vineyards within the current viticultural area boundary. In contrast, the vineyards outside the existing boundary carry a significantly lighter shade of green. The petitioner contends that the wine industry used the map as a geographic analytical tool to group all vineyards on the floor and the lower slopes of the Alexander Valley.

Distinguishing Features

The petitioner provides geographic data and other evidence to document that the proposed expansion area is similar in topography, elevation, soils, and climate to the northwestern region of the Alexander Valley viticultural area along Hiatt Road and Icaria Creek.

The petitioner explains that the existing Alexander Valley viticultural area and the proposed expansion area, located on opposite sides of the diagonal boundary line, have similar distinguishing features. The topography, including range in elevation and the flood plains along Icaria Creek, water resources, soils, and climate combine to create a similar viticultural environment on both sides of the diagonal boundary line, according to the petitioner.

Topography

The petitioner describes the similar topographic features scattered throughout the Icaria Creek area on both sides of the existing Alexander Valley viticultural area's diagonal northwestern boundary line. The proposed expansion area is at elevations of 360 feet on the flood plain along Icaria Creek to 874 feet, according to the USGS Cloverdale Quadrangle map. The topography is similar immediately east and inside the Alexander Valley viticultural area's diagonal boundary line. Elevations there, as noted on the USGS Cloverdale Quadrangle map, range from a low of 320 feet on the flood plain along Icaria Creek to a high of 884 feet.

The petitioner explains that the terrain west of the proposed expansion area becomes increasingly steep and mountainous and that elevations climb to 1,600 feet, as shown on the USGS Cloverdale Quadrangle map. The mountainous terrain contrasts with the lower elevations and the gentle valley landscape of the Alexander Valley region shown on the map. The petitioner adds that the westerly mountainous terrain creates an unsuitable environment for viticulture.

Icaria Creek and several of its tributaries, as part of the Alexander Valley watershed, run through the proposed expansion area and drain into the Russian River. In an interview in the Healdsburg Tribune of December 7, 1979, Robert Young observed that there

is only one watershed in the entire Alexander Valley. His observation, according to the petitioner, supports the expansion petition because the expansion area also falls within that watershed.

The vineyards in the proposed expansion area generally lie on the lower, flatter terrain of the flood plain along Icaria Creek, according to the diagrams on the map in the petition. The elevations generally range between 350 and 450 feet, but the southernmost part of the Seven Arches Vineyards reaches 590 feet. Jeke Vineyards, which is within the Alexander Valley viticultural area's western boundary line, lies between 350 and 380 feet of elevation on the flood plain along Icaria Creek, the petitioner states. Thus, Jeke Vineyards, which is immediately inside the east side of the diagonal boundary line, and the Icaria and Seven Arches Vineyards, which are in the proposed expansion area on the west side of the diagonal boundary line, do not vary substantially in their overall elevations and relative locations on the flood plain.

Soils

The petitioner explains that the distinguishing soils in the Icaria Creek and Hiatt Road areas in the proposed expansion area include the Hugo-Josephine-Laughlin association. According to the Soil Survey of Sonoma County, California, issued in 1972 by the United States Department of Agriculture, Soil Conservation Service, the soils in this association are well drained, gently sloping to very steep gravelly loam. This soil association, according to the petitioner, is common on the western slopes of the Alexander Valley, including much of the existing viticultural area. The predominant soil associations in the Alexander Valley viticultural area, the petitioner continues, are the Yolo-Cortina-Pleasanton, Goulding-Toomes-Guenoc, and Hugo-Josephine-Laughlin associations, which are also in the proposed expansion area.

Climate

The petitioner states that the climate of the proposed expansion area closely reflects that of the area to its immediate east and inside the viticultural area boundary line. Both areas, the petitioner states, are similar in vegetative cover, elevation, topographic features, and latitudinal coordinates.

The entire Alexander Valley viticultural area has a coastal warm climate type, according to the model Climate Types of Sonoma County, originally developed by Robert Sisson, shown on the 1986 Vossen map, and

provided with the petition. This model uses the total daily hours of temperatures between 70 and 90 degrees F. The petitioner explains that the temperature range is the most significant factor for photosynthesis in the grapevines.

Climatic variations have not been recorded along Icaria Creek and Hiatt Road between the existing Alexander Valley viticultural area and the proposed expansion area. However, the manager of the Seven Arches Vineyards writes that along Hiatt Road, on both sides of the diagonal boundary line of the existing Alexander Valley viticultural area, the climate is similar, if not identical. The petitioner explains that the reason for the similar or identical climate in both the existing and proposed expansion areas is that the coastal, or marine, influence is diminished in the inland, northern part of Sonoma County, including the northern part of the Alexander Valley.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 61 regarding the proposed expansion of the Alexander Valley viticultural area in the **Federal Register** on July 17, 2006 (71 FR 40465). We received three comments in response to that notice. All three comments, including one from the Alexander Valley Winegrowers, support the proposed expansion of the Alexander Valley viticultural area.

TTB Finding

After careful review of the petition, TTB finds that the evidence submitted supports the expansion of the Alexander Valley viticultural area as requested in the petition. Therefore, under the authority of the FAA Act and part 4 of our regulations, we amend our regulations to expand the Alexander Valley viticultural area, in Sonoma County, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the expanded viticultural area in the regulatory text published at the end of this document.

Maps

The petitioner(s) provided the required maps, and we list them below in the regulatory text.

Impact on Current Wine Labels

The expansion of the Alexander Valley viticultural area does not affect any currently approved wine labels. The approval of this expansion may allow

additional vintners to use "Alexander Valley" as an appellation of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Nancy Sutton of the Regulations and Rulings Division drafted this ruling.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Section 9.53 is amended by revising the heading of paragraph (c), revising paragraph (c)(5), redesignating

paragraphs (c)(6) through (c)(44) as (c)(9) through (c)(47), and adding new paragraphs (c)(6) through (c)(8) to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.53 Alexander Valley.

* * * * *

(c) Boundary.

* * * * *

(5) Then straight south along the eastern boundary line of Section 25, to its intersection with Kelly Road, a medium-duty road, T. 11 N., R. 11 W.;

(6) Then southwest along Kelly Road to its intersection with the northern boundary line of Section 36, T. 11 N., R. 11 W.;

(7) Then straight south to its intersection with 38° 45' N. latitude along the southern border of the Cloverdale Quadrangle map, T. 10 N., R. 11 W. and R. 10 W.;

(8) Then straight east to its intersection with 123° 00' E. longitude at the southeastern corner of the Cloverdale Quadrangle map, T. 10 N., R. 10 W.;

* * * * *

Signed: March 1, 2007.

John J. Manfreda,

Administrator.

Approved: November 16, 2007.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E8-4789 Filed 3-10-08; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB-67; Re: Notice No. 70]

RIN 1513-AB21

Expansion of the San Francisco Bay Viticultural Area (2005R-413P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision expands the San Francisco Bay viticultural area in northern California. The expansion adds 88 square miles to the viticultural area to its north in Solano County, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date:* April 10, 2008.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 94952; telephone 415-271-1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Petitioners may use the same procedure to request changes involving existing

viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

San Francisco Bay and Central Coast Expansion Petition

Hestan Vineyards, LLC, of Vallejo, California, represented by Holland and Knight LLP of San Francisco, California, submitted a petition for an 88-square-mile boundary expansion that includes portions of Solano County to the north of the Carquinez Strait, and would apply to both the established San Francisco Bay viticultural area (27 CFR 9.157) and the established Central Coast viticultural area (27 CFR 9.75). After reviewing the petition, TTB determined that the evidence submitted in support of the proposed expansion of the San Francisco Bay viticultural area merited rulemaking action. TTB also determined that there was insufficient documentation to proceed with rulemaking for the proposed expansion of the Central Coast viticultural area. Accordingly, TTB notified the petitioner of these determinations, and the petitioner agreed to proceed only with the portion of the petition for the expansion of the San Francisco Bay viticultural area.

San Francisco Bay Expansion Petition Evidence

The petitioner submitted the following information in support of the expansion of the San Francisco Bay viticultural area.

The petition states that the San Francisco Bay area is a loosely bound region that includes other bodies of water, including San Pablo Bay, the Carquinez Strait, and Suisun Bay. USGS maps of the region show that San Francisco Bay joins San Pablo Bay to its north. Also, the Carquinez Strait

connects San Pablo Bay on the west with Suisun Bay on the east.

The petition states that the area covered by the proposed expansion, which is located adjacent to the north shores of San Pablo Bay and the Carquinez Strait, is an area historically, economically, and socially considered to be a part of the San Francisco Bay region. With the exception of the 4,480 acres, or 7 square miles, of the Carquinez Strait waterway, the petition explains, the entire proposed expansion area is on land in western Solano County.

Name Evidence

As documented in the petition, a number of Government agencies and interest groups provide services to the nine counties in the recognized San Francisco Bay area, including the proposed expansion area in Solano County. The Bay Area Council's Web site as of April 12, 2005, lists its nine counties, which include Solano, San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Napa, Sonoma, and Marin. Other government agencies and interest groups using the same nine-county San Francisco Bay area parameter include the Association of Bay Area Governments, Bay Area Water Transit Authority, Bay Area Marketing Partnership, and Bay Area Economic Forum.

The petition documents that the City of Vallejo, in southwest Solano County and within the proposed San Francisco Bay expansion area, serves as a key ferry transportation hub into the City of San Francisco. The Vallejo ferry system, as explained on the Bay Area Water Transit Authority Web site, carries thousands of passengers each week from Solano County to the City of San Francisco and back.

In 1987, the State of California legislature passed a bill establishing the "San Francisco Bay Trail," as noted on page 160 of *San Francisco Bay: Portrait of an Estuary*, by John Hart, and published by the University of California Press in 2003. Mr. Hart states that this trail system includes the Vallejo area of Solano County, which the petition notes is a part of the proposed San Francisco Bay viticultural expansion area.

Boundary Evidence

The proposed San Francisco Bay viticultural area expansion area comprises an 88-square-mile area that lies northeast of the City of San Francisco and San Francisco Bay, the petition explains. The proposed boundary line of the expansion area includes portions of San Pablo Bay's

shoreline, the Solano and Napa Counties boundary line, a railroad track, and an interstate highway.

The proposed expansion area's northern boundary line follows the dividing line between Napa and Solano Counties and the Southern Pacific railroad track between Creston and Cordelia, as found on the USGS Cuttings Wharf and Cordelia maps. TTB notes that the proposed expansion area boundary line coincides with various portions of the established boundaries for the North Coast (27 CFR 9.30), Napa Valley (27 CFR 9.23), and Solano County Green Valley (27 CFR 9.44) viticultural areas.

Distinguishing Features

David G. Howell, Ph.D., Geologist at Stanford University in Palo Alto, California, Deborah Harden, Ph.D., Geologist at San Jose State University, San Jose, California, and Robert Bornstein, Ph.D., Meteorologist at San Jose State University, San Jose, California, combined efforts to provide petition evidence and documentation substantiating the proposed northerly expansion of the San Francisco Bay viticultural area. The petition addresses the commonality of distinguishing features shared by the established San Francisco Bay viticultural area and the proposed northern expansion area.

Geology

The petition explains the similarity of geology between the northern portion of the San Francisco Bay viticultural area and the proposed viticultural area expansion into Solano County. According to the petition, the Franklin Ridge landform of Contra Costa County, located in the northern most portion of the established San Francisco Bay viticultural area, continues northward into the proposed expansion area in Solano County. Franklin Ridge becomes known as Sulphur Mountain Ridge in Solano County, with the two ridges joining beneath the Carquinez Strait.

According to the petition, the north-south linkage between the established San Francisco Bay viticultural area and the proposed expansion area is based on the continuity of the underlying geology. The bedrock formations, earthquake faults, landforms, and soils of the northern San Francisco Bay viticultural area continue north into the proposed expansion area.

The petition identifies the geological bedrock core of the proposed expansion area as Cretaceous sandstone and shale. This body of rock, the petition explains, extends northward from the Mount Diablo region in Contra Costa County

into the proposed expansion in Solano County.

Soil

The two general categories of soils in the proposed expansion area are those formed in salt marshes and those formed in sandstone over shale bedrock on uplands, as described in the Soil Survey of Solano County, California, issued by the U.S. Department of Agriculture in 1977.

The Solano County general soil map documents that soils in salt marshes dominate in areas at a low elevation south of Vallejo. Also, the map shows that some of the soils in the predominant Joice, Reyes, Suisun, and Tamba soil series are mucks or peaty mucks.

The soils on uplands in Solano County are common to other parts of the San Francisco Bay viticultural area, including areas of Alameda and Santa Clara Counties, the petition explains. The most prevalent soils on uplands are in the Dibble and Los Osos series, and are moderately deep soils formed in weathered sandstone and shale under climatic conditions of seasonal soil moisture. The Altamont, Gaviota, and Millsholm series are also on uplands, according to the petitioner; the Rincon series are on alluvial fans.

Climate

The eastward and inland movement of marine air through the Golden Gate Gap, the petition explains, dominates the climate of the land areas adjacent to San Francisco Bay and San Pablo Bay and within the established viticultural area boundaries. The Carquinez Strait joins San Pablo Bay at the bay's southeast corner, according to USGS maps, and receives the same marine air that cools the San Francisco and San Pablo Bays.

According to the petition, the Carquinez Strait funnels the marine air to both the north and south sides of its shoreline, according to the petition. (TTB notes that the current San Francisco Bay viticultural area's northern boundary line extends along the south shoreline of the Carquinez Strait, following the Contra Costa County northern boundary line to BM 15 on the Honker Bay USGS map.) The proposed expansion area extends northward to include all the Carquinez Strait and portions of Solano County, according to the written boundary description and maps provided with the petition.

The current expansion petition provides evidence and documentation that the marine air flow, with its cooling effect, travels north and east from the

Golden Gate, into San Francisco Bay, San Pablo Bay, the Carquinez Strait, and to the proposed expansion area.

Although the proposed expansion area was not included in the original San Francisco Bay AVA petition, since the filing of the original petition, additional observation sites have become available that provide a more detailed analysis of the air flow patterns in and around the Carquinez Strait. Figures obtained from a new observation site that show the typical summer afternoon flow pattern on both the north and south sides of the Carquinez Strait clearly show that the Carquinez Strait is not the northern boundary of the influence of the marine air that has entered through the Golden Gate Gap.

The California Air Resources Board maps, submitted with the petition, show that the marine influence extends both north and south of the Carquinez Strait. A San Francisco Bay Air Quality Management District map shows air flow through the Carquinez Strait on July 31, 2000, a typical summer day. The air flow pattern through the Carquinez Strait brings the marine influence to the north, east, and south of the waterway, according to the map. Another computerized map of the air flow, also documented on July 31, 2000, shows the marine air entering San Francisco Bay through the Golden Gate Gap, then traveling through San Pablo Bay, and continuing east through the Carquinez Strait, north into Suisun Bay, and south into Livermore Valley.

The information submitted with the petition concludes that the Carquinez Strait should not be considered the northernmost boundary of the San Francisco Bay viticultural area. Marine air, which is a significant distinguishing climatic characteristic of the San Francisco Bay viticultural area and region, is also significant in the proposed expansion area, according to the petition.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 70 regarding the proposed expansion to the San Francisco Bay viticultural area in the **Federal Register** (71 FR 70472) on December 5, 2006. We received one comment in response to that notice. That comment supported the expansion of the San Francisco Bay viticultural area.

TTB Finding

After careful review of the petition and the comment received, TTB finds that the evidence submitted supports the expansion of the San Francisco Bay viticultural area as requested in the

petition. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we amend our regulations to expand the San Francisco Bay viticultural area in northern California, effective 30 days from the publication date of this document.

Boundary Description

See the modified narrative boundary description reflecting the expanded viticultural area in the regulatory text amendment published at the end of this document.

Maps

The petitioner provided the required maps pertaining to the expansion, and we list them below in the amended regulatory text.

Impact on Current Wine Labels

The expansion of the San Francisco Bay viticultural area does not affect any currently approved wine labels. The approval of this expansion may allow additional vintners to use “San Francisco Bay” as an appellation of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine’s true place of origin. For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by

Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N. A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter I, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Section 9.157 is amended by revising the introductory text of paragraph (b), removing the word “and” at the end of paragraph (b)(42), replacing the period with a semicolon at the end of paragraph (b)(43), adding new paragraphs (b)(44) through (b)(47), revising the introductory text of paragraph (c), revising paragraph (c)(24), redesignating paragraphs (c)(25) through (c)(38) as (c)(31) through (c)(44), and adding new paragraphs (c)(25) through (c)(30), to read as follows:

§ 9.157 San Francisco Bay.

* * * * *

(b) *Approved Maps.* The appropriate maps for determining the boundary of the San Francisco Bay viticultural area are 47 1:24,000 Scale USGS topographic maps. They are titled:

* * * * *

(44) Cuttings Wharf, Calif.; 1949; Photorevised 1981;

(45) Sears Point, Calif.; 1951; Photorevised 1968;

(46) Cordelia, Calif.; 1951;

Photorevised 1980; and

(47) Fairfield South, Calif.; 1949; Photorevised 1980.

(c) *Boundary.* The San Francisco Bay viticultural area is located mainly within five counties, San Francisco, San Mateo, Santa Clara, Alameda, and Contra Costa, which border the San Francisco Bay. The area also includes portions of three other counties, Solano, Santa Cruz, and San Benito, which are in the general vicinity of the greater San Francisco Bay metropolitan area. The boundary of the San Francisco Bay viticultural area is as described below.

* * * * *

(24) Then proceed west-southwest along the south shoreline of the Suisun Bay and the Carquinez Strait to its intersection with Interstate 680 at the Benicia-Martinez Bridge and BM 66, T3N/R2W, on the Vine Hill Quadrangle.

(25) Then proceed generally north following Interstate 680, crossing over and back on the Benicia Quadrangle map and continuing over the Fairfield South Quadrangle map, to its intersection with the Southern Pacific railroad track at Cordelia, Section 12, T4N/R3W, on the Cordelia Quadrangle map.

(26) Then proceed generally west along the Southern Pacific railroad track to its intersection with the Napa and Solano Counties boundary line in Jameson Canyon at Creston, Section 9, T4N/R3W, on the Cordelia Quadrangle map.

(27) Then proceed generally south-southeast, followed by straight west along the Napa and Solano Counties boundary line; continue straight west, crossing over the Cuttings Wharf Quadrangle map, to its intersection with the east shoreline of Sonoma Creek slough, which coincides with the Highway 37 bridge on the Solano County side of the creek, T4N/R5W, on the Sears Point Quadrangle.

(28) Then proceed generally southeast along the north and east shorelines of San Pablo Bay, also known as the San Pablo Bay National Wildlife Refuge, crossing over the Cuttings Wharf Quadrangle map, to its intersection with the Breakwater line, located within the Vallejo City boundary and 0.7 mile west-southwest of the beacon, T3N/R4W, on the Mare Island Quadrangle.

(29) Then proceed straight south-southwest 1.2 miles to its intersection with the San Pablo Bay shoreline at BM 14, west of Davis Point, T3N/R4W, on the Mare Island Quadrangle.

(30) Then proceed generally south along the contiguous eastern shorelines of San Pablo Bay and San Francisco Bay, crossing over the Richmond and San Quentin Quadrangle maps, to its intersection with the San Francisco/Oakland Bay Bridge on the Oakland West Quadrangle.

* * * * *

Signed: March 16, 2007.

John J. Manfreda,
Administrator.

Approved: November 16, 2007.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

Editorial Note: This document was received at the Office of the Federal Register on March 6, 2008.

[FR Doc. E8-4785 Filed 3-6-08; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2007-0111]

RIN 1625-AA08

Final Rule: Special Local Regulations Concerning Fireworks Displays in Norwich and Middletown, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Coast Guard is amending the coordinates given for two previously established special local regulations. The listed coordinates for the Taste of Italy Fireworks in Norwich, CT; and for the Middletown Fireworks on the Connecticut River in Middletown Harbor, Middletown, CT are being amended to properly reflect the geographic location where the events have been held in the past and will be held in the future.

DATES: This rule is effective April 10, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2007-0111 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at 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 the Waterways Management Division, Coast Guard Sector Long Island Sound, 120 Woodward Ave., New Haven, CT 06512, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LT

Doug Miller at (203) 468-4596 or write him at the Waterways Management Division, U.S. Coast Guard Sector Long Island Sound, 120 Woodward Ave., New Haven, CT 06512-3628. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard has determined that a notice and comment period is unnecessary as the change consists only of a correction to reflect the true location of the events. A notice of proposed rulemaking (64 FR 18587) was published on April 15, 1999 prior to the creation of these special local regulations which clearly noted the geographic location of these events. Additionally, these two special local regulations have been in effect for each of the past eight years and the Coast Guard has not received any public comments regarding the provisions of these regulations. Therefore, it is unnecessary to publish an NPRM.

Background and Purpose

Taste of Italy Fireworks

The Taste of Italy Fireworks display takes place annually on a night during the weekend following Labor Day from 8 p.m. to 10 p.m. A permanent special local regulation around the fireworks launch location was created in 33 CFR 100.114 on June 28, 1999. The final rule establishing the regulation was preceded by a Notice of Proposed Rulemaking (64 FR 18587) published on April 15, 1999. The NPRM listed the location of the fireworks as Norwich Harbor but did not give geographic coordinates. No comments or requests for public hearings were received. The special local regulation was published as a final rule in 64 FR 34544 on June 28, 1999, and geographic coordinates were included; however, the geographic coordinates published in the regulation were incorrect. Historically, this event has occurred at the approximate position 41°31'20.9" N, 072°04'45.9" W in Norwich Harbor and the Coast Guard is amending 33 CFR 100.114(a)(9.5) to reflect the location where it has been held in the past and where it will continue to be held in the future. The currently published position of 41°31'20" N, 073°04'83" W is being changed because the longitude position of 073°04'83" W is incorrect. The

longitude position where the event is held is at 072°, not the longitude position of 073° currently listed in the regulation. Also, the coordinate position 83° does not exist as a proper geographic coordinate and thus is being amended in this final rule. Publishing the special local regulation's correct location is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. Having a properly established special local regulation will protect the maritime public by prohibiting entry into or movement within this portion of Norwich Harbor from approximately one hour prior to, during and one hour after the stated event.

Middletown Fireworks

The Middletown Fireworks display takes place annually on July 4th from 8 p.m. to 10 p.m. A permanent special local regulation around the fireworks launch location was created in 33 CFR 100.114 on June 28, 1999. The final rule establishing the regulation was preceded by a Notice of Proposed Rulemaking (64 FR 18587) published on April 15, 1999. The NPRM listed the location of the fireworks as on the Connecticut River at Middletown Harbor but did not give geographic coordinates. No comments or requests for public hearings were received. The revision of the special local regulation was published as a final rule in 64 FR 34544 on June 28, 1999, and geographic coordinates were included at that time; however, the geographic coordinates published in the regulation were incorrect. Historically, this event has occurred at the approximate position 41°33'47.5" N, 072°38'39.6" W in Middletown Harbor and therefore the Coast Guard is amending 33 CFR 100.114(a)(7.37) to properly reflect the location where it has been held in the past and where it will continue to be held in the future. The currently published position of 41°33'79" N, 073°38'83" W is being changed because these coordinates are inaccurate and the location does not exist as the coordinates are not properly formatted for plotting purposes. The longitude position where the event is held is at 072°, not the longitude position of 073° currently listed in the regulation. Also, the coordinate positions 79' and 83" do not exist as proper geographic coordinates and thus are being amended in this final rule. Accordingly, the Coast Guard is amending section 100.114(a)(7.37) to state the correct approximate position of the display to be 41°33'47.5" N, 072°38'39.6" W. Publishing the special local regulation's correct location is necessary to protect

the life and property of the maritime public from the hazards posed by the fireworks display. Having a properly established special local regulation will protect the maritime public by prohibiting entry into or movement within this portion of the Connecticut River at Middletown Harbor from approximately one hour prior to, during and one hour after the stated event.

Discussion of Rule

This amendment to 33 CFR 100.114 (a)(9.5) will correct the coordinates currently listed in this regulation for the Taste of Italy Fireworks display. The special local regulation established on the navigable waters of Norwich Harbor will have the approximate position 41°31'20.9" N, 072°04'45.9" W. The zone created by this special local regulation will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a navigable portion of Norwich Harbor to provide for the protection of life and property of the maritime public. The special local regulation will continue to be enforced from 8 p.m. until 10 p.m. on a night during the weekend following Labor Day as specified by the event organizers. Specific dates for future events will be published in the **Federal Register**. Marine traffic may transit safely outside of the zone created by the special local regulation during the event thereby allowing navigation of the rest of Norwich Harbor except for the portion delineated by this rule.

The amendment to CFR 100.114(a)(7.37) will correct the approximate position of the Middletown Fireworks display. This change is needed to accurately convey the geographic coordinates of the fireworks event and the special local regulation so that mariners can plan their voyages accordingly thus enhancing the safety of participants, spectators, and transiting vessels.

This action is intended to prohibit vessel traffic in a navigable portion of the Connecticut River at Middletown Harbor to provide for the protection of life and property of the maritime public. The special local regulation will continue to be enforced from 8 p.m. until 10 p.m. annually on the 4th of July. Marine traffic may transit safely outside of the zone created by the special local regulation during the event thereby allowing navigation of the rest of Middletown Harbor except for the portion delineated by this rule.

The Captain of the Port anticipates minimal negative impact on vessel traffic from either of these special local regulations due to the limited area

covered by the regulations and the short enforcement periods. In addition, public notification will be made via the First Coast Guard District Local Notice to Mariners and marine safety broadcasts.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

These regulations may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels will only be excluded from the areas of the special local regulations for two hours and vessels will be able to operate in other areas of Norwich Harbor, Norwich, CT and Middletown Harbor, Middletown, CT during the enforcement periods.

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 the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in those portions of Norwich Harbor covered by the special local regulations and the owners or operators of vessels intending to transit the portion of the Connecticut River at Middletown Harbor covered by the special local regulations. For reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 this 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 the rule 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.ID 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)(h), of the Instruction, from further environmental documentation as the rule modifies a special local regulation.

Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.114 (a), in the Fireworks Display Table, revise the entries for Connecticut: 7.37 and Connecticut: 9.5 as follows:

§ 100.114 Fireworks Displays within the First Coast Guard District

(a) * * *

FIREWORKS DISPLAY TABLE

Connecticut: 7.37	July 4th	Name: Middletown Fireworks. Sponsor: City of Middletown. Time: 8 p.m. to 10 p.m. Location: Connecticut River, Middletown Harbor, Middletown, CT. 1°33'47.5" N, 072°38'39.6" W (NAD 1983).
Connecticut: 9.5	A night during the weekend following Labor Day.	Name: Taste of Italy Fireworks. Sponsor: Italian Heritage Committee. Time: 8 p.m. to 10 p.m. Location: Norwich Harbor, off Norwich Marina, Norwich, CT. 41°31'20.9" N, 072°04'45.9" W (NAD 1983).

Dated: February 28, 2008.

T.S. Sullivan,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.

[FR Doc. E8-4830 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2007-0078]

RIN 1625-AA09

Drawbridge Operation Regulation; Liberty Bayou, Slidell, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the State Route 433 (S433) Bridge across Liberty Bayou, mile 2.0, at Slidell, St. Tammany Parish, Louisiana and cancelling the test deviation presently in effect for this bridge. This change is being made in order to reduce the hours of manned operation of the bridge to make more efficient use of personnel and operating resources.

DATES: This rule is effective April 10, 2008. The test deviation, USCG-2007-0081, published on November 15, 2007, under docket number CGD08-07-032, (72 FR 64152) is cancelled as of April 10, 2008.

ADDRESSES: Comments and related materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2007-0078, previously published under docket number CGD08-06-010. The docket is available at <http://www.regulations.gov>. This material is also available for inspection of copying

at 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 the office of the Commander, Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, Room 1313, New Orleans, LA 70130-3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 671-2128. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 15, 2007, we published a supplemental notice of proposed rulemaking (SNPRM) entitled "Drawbridge Operation Regulations; Liberty Bayou, Slidell, LA" in the **Federal Register**, (72 FR 64177), USCG-2007-0078, previously published under docket number CGD08-06-010. No public meeting was requested, and none was held.

Concurrent with the publication of the SNPRM, a Test Deviation, USCG-2007-0081, old docket number CGD08-07-032, was published on November 15, 2007 entitled, "Drawbridge Operation Regulations; Liberty Bayou, Slidell, LA" in the **Federal Register**, (72 FR 64152) to allow the Louisiana Department of Transportation and Development to test the proposed schedule and to obtain data and public comments. The Coast Guard received no public comments from this SNPRM or the above referenced Test Deviation. This deviation is being cancelled upon this final rule going into effect because there have been no comments or complaints, and the new operating schedule will be

permanent upon cancellation. This deviation from the operating regulations was authorized under 33 CFR 117.35.

Background and Purpose

On May 4, 2006, The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** (86 FR 26290), under docket number CGD08-06-010. The proposed rule would have changed the notice required for an opening from 12 hours to 4 hours. The Coast Guard did not receive any comments as a result of the Notice of Proposed Rulemaking, but a final rule was not published. Subsequently, the bridge owner requested that the operating regulation for the bridge again be revised so that the bridge will open on signal, except that from 7 p.m. to 7 a.m., the bridge will open on signal if at least 2 hours notice is given.

The Louisiana Department of Transportation and Development has requested that the operating regulation of the S433 pontoon span bridge be changed in order to make more efficient use of operating resources. Currently, the draw of the S433 Bridge opens on signal except that from 9 p.m. to 5 a.m. the draw will open on signal if at least 12 hours notice is given, as required by 33 CFR 117.469.

Traffic counts indicate that an average of 6000 vehicles cross the bridge daily and approximately 1025, or 17.1% of those, cross between the hours of 7 p.m. and 7 a.m. Bridge tender logs for a three-month period show that the bridge opened 540 times, or an average of 6 times per day, to pass vessels. Of those vessel openings during the three-month period, 56, or 10.2% of them, were between the hours of 7 p.m. and 7 a.m. Most of the boats requesting openings are recreational fishing vessels, recreational powerboats and sailboats that routinely transit this waterway and are able to give advance notice.

On November 24, 2006 a Coast Guard Bridge Permit was issued approving the construction of a new swing span bridge

to be constructed to replace the existing pontoon span bridge. Upon completion of construction, the new bridge will provide a vertical clearance of 7.59 feet above the 2% flow line. While this vertical clearance will accommodate many small recreational boats, larger vessels will still require an opening of the draw for passage. The schedule, placed into effect by this final rule, will be carried over to this new bridge.

Discussion of Comments and Changes

The Coast Guard did not receive any comments or responses to the SNPRM or the test deviation.

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This conclusion is based on the fact that all vessel traffic will still be able to transit through the bridge between 7 p.m. and 7 a.m. after providing the two-hour advance notice for bridge openings.

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 will not significantly impact any small entities because they are able to give notice prior to transiting through this bridge and most vessel operators that require an opening are currently providing advance notice.

Assistance for Small Entities

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

process. The Coast Guard provided contact information, so that small entities could ask questions concerning this rule. No small entities contacted the Coast Guard.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.ID 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 because this rule involves drawbridge regulations. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Words of Issuance and Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.469 is revised to read as follows:

§ 117.469 Liberty Bayou.

The draw of the S433 Bridge, mile 2.0, at Slidell, shall open on signal, except that between 7 p.m. to 7 a.m., the draw shall open on signal if at least two hours notice is given.

Dated: February 27, 2008.

Joel R. Whitehead,

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

[FR Doc. E8–4816 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0116]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), at Scotts Hill, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary

deviation from the regulation governing the operation of the Figure Eight Swing Bridge, at AIWW mile 278.1, at Scotts Hill, NC. From February 29, 2008 at 6 p.m. until March 11, 2008 at 5:30 p.m., this deviation is necessary to complete sandblasting and painting operations along with mechanical repairs. The drawbridge will remain closed-to-navigation each day from 6 p.m. to 9:30 a.m., from 10 a.m. to 1:30 p.m., and from 2 p.m. to 5:30 p.m.

DATES: This deviation is effective from 6 p.m. on February 29, 2008 to 5:30 p.m. on March 11, 2008.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Commander (dpb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629.

SUPPLEMENTARY INFORMATION: The Figure Eight Swing Bridge has a vertical clearance in the closed position to vessels of 20 feet, above mean high water (MHW). Also, the vertical clearance in this location is limited to 85 feet, above MHW, by the overhead power line.

On December 27, 2007, we published a notice of temporary deviation from regulations entitled “Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), at Scotts Hill, NC” in the **Federal Register** (72 FR 56013).

Contractors, on behalf of the Figure Eight Homeowners Association (the bridge owner), requested an additional temporary deviation from the current operating regulations set out in 33 CFR 117.821(a)(3) to close the drawbridge to navigation in order to complete sandblasting, cleaning and painting of the bridge superstructure along with mechanical repairs.

To complete this operation, the Figure Eight Swing Bridge will be further maintained in the closed-to-navigation position each day from February 29, 2008, until March 11, 2008, from 6 p.m. to 9:30 a.m., from 10 a.m. to 1:30 p.m., and from 2 p.m. to 5:30 p.m. Commercial vessel openings will be provided from the 6 p.m. to 9:30 a.m. work-block if at least three hours notice is given by calling (910) 686–0635 or via marine radio on Channel 13. At all other

times, the drawbridge will operate in accordance with 33 CFR 117.821(a)(3).

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the closure period for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

We analyzed this temporary deviation under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f).

The environmental impact of this temporary deviation will be minimal because closing the drawbridge to vessels in order to perform routine repair and maintenance will not result in a change in functional use, or an impact on a historically significant element or setting.

Dated: February 25, 2008.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E8–4812 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2007–0079]

RIN 1625–AA09

Drawbridge Operation Regulation; Tchefuncta River, Madisonville, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the State Route 22 (S22) Bridge across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana and cancelling the test deviation presently in effect for this bridge. This change is being made in order to enhance the flow of vehicles across the bridge during peak traffic hours.

DATES: This rule is effective April 10, 2008. The test deviation, docket number USCG–2007–0082, old docket number

CGD08-07-034, (72 FR 64152) is cancelled as of April 10, 2008.

ADDRESSES: Comments and related materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2007-0079, previously published under docket number CGD08-07-038. The docket is available at <http://www.regulations.gov>. This material is also available for inspection or copying at 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 the office of the Commander, Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, Room 1313, New Orleans, LA 70130-3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 671-2128. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 15, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA" in the **Federal Register** (72 FR 64175) under docket number CGD08-07-033. No public meeting was requested, and none was held.

Concurrent with the publication of the Notice of Proposed Rulemaking, a Test Deviation, USCG-2007-0082, old docket number CGD08-07-037, was published in the **Federal Register** (72 FR 64152) on November 15, 2007 to allow the Louisiana Department of Transportation and Development to test the proposed schedule and to obtain data and public comments. The test period was in effect during the entire Notice of Proposed Rulemaking comment period. The Coast Guard has reviewed the public comments from this Notice of Proposed Rulemaking and the above referenced Temporary Deviation and determined that a permanent special drawbridge operating regulation is warranted.

Background and Purpose

The Louisiana Department of Transportation and Development

requested that the operating regulation of the S22 swing span bridge be changed in order to better accommodate the vehicular traffic crossing the bridge during peak, weekday rush hours. Currently 33 CFR 117.500 reads: The draw of the S22 Bridge, mile 2.5, at Madisonville shall open on signal except that, from 5 a.m. to 8 p.m., the draw need open only on the hour and half-hour.

The bridge owner requested that the operating regulation be changed to read as follows: The draw of the S22 Bridge, mile 2.5 at Madisonville, shall open on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m., the draw need only open on the hour and half hour, except that, from 6 a.m. to 9 a.m. and from 4 p.m. to 7 p.m. Monday through Friday except Federal holidays, the draw need only open on the hour. The Louisiana Department of Transportation and Development and the Coast Guard believe that this change to the operating regulation will accommodate most vehicular traffic, and that the needs of navigation will also be met. Most of the vessels that request openings are recreational powerboats and sailboats that routinely transit this waterway and are able to adjust their schedules to coincide with the proposed drawbridge operating schedule.

Discussion of Comments and Changes

The Coast Guard received a total of twelve letters of comment in response to the NPRM and the test deviation. Three of the letters were from Federal or state environmental agencies, stating that there was no objection to the proposal. Nine letters were from local citizens, seven of which stated approval of the proposed change. One of the approval letters indicated a desire for the period for opening only on the hour beginning at 2:30 p.m. to accommodate more of the school traffic. The Coast Guard believes that extending the restriction to open only on the hour beginning at 2:30 p.m. will cause the boating traffic to be too severely restricted through the majority of the day. Thus, the suggested change to the proposed regulation is not considered by the Coast Guard to be in the best interest of boaters who have already been restricted from bridge openings in the mornings and afternoons. Two of the letters neither opposed nor supported the proposal, but generally expressed dissatisfaction with the usual daily movement of vehicular traffic through Madisonville and across the S22 Bridge. These letters were forwarded to LDOTD for their consideration.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This is because the current and historical waterway traffic is comprised almost entirely of recreational vessels that can easily adjust schedules for transits through the bridge.

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 will affect a limited number of small entities. These entities include operators of pleasure powerboats and sailboats using the waterway. This proposed rule will not significantly impact these small entities because they are able to schedule transits through this bridge.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard provided contact information, so that small entities could ask questions concerning this rule.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order

13175, Consultation and Coordination with Indian Tribal Governments, because it 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.ID 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 because this rule involves drawbridge regulations. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Words of Issuance and Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.500 is revised to read as follows:

§ 117.500 Tchefuncta River.

The draw of the S22 Bridge, mile 2.5, at Madisonville, shall open on signal, from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m., the draw need only open on the hour and half hour, except that, from 6 a.m. to 9 a.m. and from 4 p.m. to 7 p.m. Monday through Friday except Federal holidays, the draw need only open on the hour.

Dated: February 27, 2008.

Joel R. Whitehead,

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

[FR Doc. E8-4818 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG-2008-0113]

RIN 1625-AA-09

Drawbridge Operation Regulations; Intracoastal Waterway (ICW); Beach Thorofare, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Margate Bridge, at ICW mile 74.0, across Beach Thorofare at Margate, New Jersey. This deviation is necessary to make emergency structural steel repairs.

DATES: This deviation is effective from 7 a.m. on March 1, 2008, to 11:59 p.m. on May 1, 2008.

ADDRESSES: Materials referred to in this document are available for inspection or

copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6557. Commander (dpb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandra S. Elliott, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6557.

SUPPLEMENTARY INFORMATION: The subcontractor on behalf of the Margate Bridge Company, who owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 that requires the bridge to open promptly and fully for the passage of vessels when a request to open is given.

Margate Bridge has a vertical clearance in the closed position to vessels of 14 feet above mean high water (MHW).

Under this temporary deviation, the drawbridge will provide partial openings of the lift spans for vessels. The emergency structural steel repairs require immobilizing half of the draw span to single-leaf operation each day, beginning 7 a.m. on Saturday, March 1, 2008, until and including 11:59 p.m. Thursday, May 1, 2008, with a work barge occupying one-half of the 58-foot wide channel under the bridge, so passage through the bridge will be limited to a 29-foot width for the duration of the project. The opposite connecting span while not under repair will continue to open for vessels if at least a half-hour advance notice is given to the bridge tender at (609) 822-9175 or via marine radio on channel 13 VHF. Also, mariners requiring the full opening of the lift spans or the full width of the channel under the bridge will be directed to use the Atlantic Ocean as the alternate route between Absecon and Great Egg Harbor Inlets.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the partial openings of the draw span to minimize transiting delays caused by the temporary deviation.

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

Dated: February 26, 2008.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E8-4813 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2007-0070]

RIN 1625-AA09

Drawbridge Operation Regulation; Bonfouca Bayou, Slidell, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the State Route 433 (S433) Bridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana and cancelling the test deviation presently in effect for this bridge. This change is being made in order to reduce the hours that the bridge must be manned during the period between 6 p.m. and 6 a.m., making more efficient use of operating resources.

DATES: This rule is effective April 10, 2008. The test deviation, USCG-2007-0068, published on November 9, 2007, old docket number CGD08-07-034, (72 FR 63486) is cancelled as of April 10, 2008.

ADDRESSES: Comments and related materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2007-0070, previously published under docket number CGD08-07-033. The docket is available at <http://www.regulations.gov>. This material is also available for inspection of copying at 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 the Office of the Commander, Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, Room 1313, New Orleans, LA 70130-3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 671-2128. If you have

questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 9, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Bonfouca Bayou, Slidell, LA" in the **Federal Register** (72 FR 63530) under docket number CGD08-07-033. No public meeting was requested, and none was held.

Concurrent with the publication of the Notice of Proposed Rulemaking concerning this schedule of operation, a Test Deviation was published on November 9, 2007, entitled "Drawbridge Operation Regulations; Bonfouca Bayou, Slidell, LA" in the **Federal Register**, (72 FR 63486) under docket number USCG 2007-0068, previously docket number CDG08-07-034. This test deviation was issued to allow the Louisiana Department of Transportation and Development to test the proposed schedule and to obtain data and public comments. This deviation is being cancelled upon this final rule going into effect because there have been no comments or complaints, and the new operating schedule will be permanent upon cancellation. This deviation from the operating regulations was authorized under 33 CFR 117.35.

Background and Purpose

The Louisiana Department of Transportation and Development requested that the operating regulation on the S433 Bridge be changed in order to reduce the hours that the bridge must be manned during the period between 6 p.m. and 6 a.m., making more efficient use of operating resources. Currently 33 CFR 117.433 reads: The draw of the S433 Bridge, mile 7.0, at Slidell shall operate as follows:

(a) The draw need not open for passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m., Monday through Friday except Federal holidays.

(b) The draw need open only on the hour and half-hour from 6 a.m. to 7 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays.

(c) The draw shall open on signal from 9 p.m. to 5 a.m., if at least four hours notice is given to the Louisiana Department of Transportation and Development Security Service at (504) 375-0100.

(d) At all other times the draw shall open on signal.

In order to reduce the hours that the bridge must be manned during the

period between 6 p.m. and 6 a.m., making more efficient use of operating resources, the owner of the bridge has requested that the operating regulation be changed to read as follows: The draw of the S433 Bridge, mile 7.0 at Slidell, shall open on signal, except that from 6 p.m. to 6 a.m., the draw shall open on signal if at least two hours notice is given. On Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m.

The rule will also delete the incorrect area code and the telephone number provided in paragraph (c) of the regulation, which is not necessary since the telephone number is required to be posted on the bridge.

The S433 Bridge located on Bonfouca Bayou at mile 7.0 in Slidell, St. Tammany Parish, Louisiana has a vertical clearance of 8.2 feet above mean high water, elevation 3.2 feet Mean Sea Level (MSL) in the closed position and unlimited clearance in the open position. Traffic counts indicate that the majority of vehicular traffic crosses the bridge between 7 a.m. and 8 a.m. and between 1:45 p.m. and 2:45 p.m., rush hours for commuters and school buses. The Louisiana Department of Transportation and Development believes that the proposed operating regulation will accommodate most vehicular traffic, and that the needs of navigation will also be met, while making the best use of available personnel to operate the bridge. Most of the vessels that request openings are commercial vessels consisting of small tugboats with one or two barges, shrimp trawlers and large recreational powerboats and sailboats that routinely transit this waterway and are able to give advance notice.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM or the test deviation.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The current and historical waterway traffic is very minimal with an average of 2.5 signals to open a day.

Most signals come from commercial vessels and recreational craft that are able to schedule an opening in advance.

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 will affect a limited number of small entities. These entities include operators of tug boats and trawlers using the waterway. This rule will not significantly impact these small entities because they are able to give notice prior to transiting through this bridge and most vessel operators that require an opening are currently providing advance notice. Lastly, no comments or complaints were received concerning this new operating schedule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard provided contact information, so that small entities could ask questions concerning this rule. No small entities contacted the Coast Guard.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction because this rule involves drawbridge regulations. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Words of Issuance and Regulatory Text

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. § 117.433 is revised to read as follows:

§ 117.433 Bonfouca Bayou.

The draw of the S433 Bridge, mile 7.0, at Slidell, shall open on signal, except that from 6 p.m. to 6 a.m., the draw shall open on signal if at least two hours notice is given. On Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m.

Dated: February 27, 2008.

Joel R. Whitehead,

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

[FR Doc. E8–4815 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0147]

RIN 1625–AA00

Safety Zone: Fireworks Display, Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to establish a 300 foot radius safety zone around a fireworks display for the Roanoke Bible College occurring on April 4, 2008 on the Pasquotank River, Elizabeth City, NC. This action is intended to restrict vessel traffic on the Pasquotank River. This safety zone is necessary to protect mariners from the hazards associated with firework displays.

DATES: This rule is effective from 8 p.m. to 10 p.m. on April 4, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0147 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at 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 North Carolina, 2301 East

Fort Macon Rd., Atlantic Beach, North Carolina, 28512 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Christopher Humphrey, Marine Event Coordinator, Sector North Carolina, (252) 247–4569. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Immediate action is needed to protect the maritime public from the hazards associated with the fireworks display and fallout over the water. The necessary information to determine whether this firework display would impact the marine public was not determined within sufficient time to publish an NPRM. For the safety concerns noted, it is in the public's best interest to have this regulation in place during the display. Coast Guard personnel will be on scene to provide actual notice to mariners who may not know about this safety zone. Also, a notice to mariners will be broadcast for this 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**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety.

Background and Purpose

On April 4, 2008, the Roanoke Bible College will conduct a fireworks display adjacent to Pasquotank River, Elizabeth City, North Carolina. Spectators will be observing from both shore and from vessels. Due to the need to protect the mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted in this portion of the river.

Discussion of Rule

The Coast Guard is establishing a safety zone on specified waters on the Pasquotank River, adjacent to Elizabeth City, North Carolina. The regulated area will consist of a 300 feet radius safety zone around the launch site in approximate position 36°18'16" N 076°12'52" W, which is located approximately 500 yards east of the

Camden Causeway Bridge Highway 158. The safety zone will be enforced from 8 p.m. to 10 p.m. on April 4, 2008. General navigation in the safety zone will be restricted during the event. Except for participants and vessels authorized by the Captain of the Port Representative, no person or vessel may enter or remain in the regulated area.

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.

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 will affect the following entities, some of which are small entities: The owners and operators of vessels intending to transit or anchor in that portion of the Pasquotank River on April 4, 2008, between the hours of 8 p.m. and 10 p.m. The safety zone will not have a significant impact on a substantial number of small entities, because the zone will only be in place for a limited amount of time, 2 hours late in the evening when vessel traffic is low. In addition maritime advisories will be issued in advance, so the mariners can adjust their plans accordingly.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Christopher Humphrey, Marine Event Coordinator,

Coast Guard Sector North Carolina at (252) 247–4569. 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.ID

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. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting & 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5.; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–014 to read as follows:

§ 165.T05–014 Safety Zone: Pasquotank River, Elizabeth City, North Carolina.

(a) *Location:* The following area is a safety zone: All waters of Pasquotank River within a 300 foot radius of approximate position 36°18'16"N 076°12'52"W in the Captain of the Port Sector North Carolina zone as defined in 33 CFR 3.25–20.

(b) *Definition:* As used in this section; Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulation:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or designated representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign;

(ii) Proceed as directed by any commissioned, warrant or petty officer

on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Sector North Carolina can be contacted at telephone number (252) 247–4570 or (252) 247–4571.

(4) Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, Channel 13 (156.65Mhz) and Channel 16 (156.8Mhz).

(d) *Enforcement period:* This regulation will be enforced from 8 p.m. to 10 p.m. on April 4, 2008.

(e) *Effective Date:* This regulation is effective from 8 p.m. until 10 p.m. on April 4, 2008.

Dated: February 28, 2008.

G.D. Case,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector North Carolina.

[FR Doc. E8–4799 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 956

Rules of Practice in Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is removing the Rules of Practice in Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity.

DATES: *Effective Date:* March 11, 2008.

FOR FURTHER INFORMATION CONTACT: Diane M. Mego, (703) 812–1905.

SUPPLEMENTARY INFORMATION: The Postal Service is removing the Rules of Practice in Proceedings Relative to Disciplinary Action for Violations of Restrictions on Post-Employment Activity. These provisions have been superseded by the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics. This revision is a mandated change in the agency rules of procedure before the Judicial Officer and, therefore, it is appropriate for its adoption by the Postal Service to become effective immediately.

Accordingly, the Postal Service removes and reserves 39 CFR part 956 as set forth below:

PART 956—[REMOVED AND RESERVED]

■ 1. Remove and reserve Part 956.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 08–946 Filed 3–10–08; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–0717; FRL–8533–1]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Approval of Construction Permit Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Wisconsin State Implementation Plan (SIP) submitted by the Wisconsin Department of Natural Resources (WDNR) on May 1, 2007. The WDNR has submitted for approval into its SIP a revision which allows the WDNR to issue a waiver to a source allowing it to commence construction prior to a construction permit being issued, in certain cases. This provision is only allowed for minor sources that meet specific criteria, and WDNR must follow established procedures to grant a waiver. In addition, the revision also contains changes to Wisconsin's fee provisions to allow a fee to be charged for the waiver. EPA proposed approval of this revision on December 4, 2007 (72 FR 68119). EPA did not receive any comments. EPA is approving this revision because it is consistent with Federal regulations governing state permit programs.

DATES: This final rule is effective on April 10, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2007–0717. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard

copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Susan Castellanos, Environmental Engineer, at (312) 353-2654 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Susan Castellanos, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-2654, castellanos.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

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

- I. Background Information on Today’s Action
- II. What Comments did we Receive?
- III. What Action is EPA Taking Today?
- IV. Statutory and Executive Order Reviews

I. Background Information on Today’s Action

On December 4, 2007, EPA published a proposed approval for a revision to Wisconsin’s construction permit program (72 FR 68119). This revision to Wisconsin’s SIP rennumbers and amends NR 406.03, amends NR 410.03 (intro.) and creates NR 406.03(2) and NR 410.03(l)(bm), Wis. Admin. Code. These changes allow WDNR to issue a waiver to a source allowing it to commence construction in certain cases prior to a construction permit being issued. These revisions also contain changes to Wisconsin’s fee provisions to allow a fee to be charged for the waiver.

Wisconsin Rule NR 406 contains the requirements and procedures for construction permits. The revisions to NR 406.03 require the following conditions to be satisfied before the State may grant a source a waiver: (1) A complete construction permit application has been submitted for the source; (2) the source and the proposed project will result in the source remaining a true minor source (no synthetic minor or netting permits); (3) the waiver request must demonstrate that undue hardship will result if the waiver is not granted; and (4) the source is not located or to be located within 10 kilometers of a Class I area. Undue hardship may result from adverse weather conditions, catastrophic damage of existing equipment, a substantial financial hardship that may preclude the project in its entirety, and other unique conditions.

The rule further states that a waiver does not obligate the WDNR to ultimately approve the project, or relieve the source from compliance with any applicable regulation. Finally, if a waiver is granted and the source proceeds with construction, the rule specifies that it is doing so at its own risk, and the source may not operate until the permit is issued. WDNR may rescind a waiver if the owner or operator does not diligently respond to inquiries on the construction permit application or if WDNR preliminarily determines that the source will not meet the criteria for permit approval.

Additional changes are being made to NR 410, Wisconsin’s air permit fee rules, to include fees for waivers. NR 410.03(1)(a)(5), related to the fees for a construction permit revision, is amended to exempt the fee if the requested revision is to make the source eligible for a registration operation permit.

II. What Comments did we Receive?

Notice of the public comment period for the proposed approval of Wisconsin SIP revision was published on December 4, 2007 (72 FR 68119). The public comment period ended on January 3, 2008. EPA did not receive any comments on the proposed revision.

III. What Action is EPA Taking Today?

EPA is approving the revisions to Wisconsin’s SIP to renumber and amend NR 406.03, to amend NR 410.03(intro.) and to create NR 406.03(2) and NR 410.03(l)(bm). These changes allow WDNR to issue a waiver to a source allowing it to commence construction in certain cases prior to a construction permit being issued. These revisions also contain changes to Wisconsin’s fee provisions to allow a fee to be charged for the waiver.

IV. Statutory and Executive Order Reviews.

Executive Order 12866: Regulatory Planning and Review

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

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

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant regulatory action,” this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act

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

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

Executive Order 13132: Federalism

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

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

This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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.

Paperwork Reduction Act

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

Congressional Review Act

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference,

Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 13, 2008.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

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

Subpart YY—Wisconsin

■ 2. Section 52.2570 is amended by adding paragraph (c)(117) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(117) On May 1, 2007, Wisconsin submitted for EPA approval into the Wisconsin SIP a revision to renumber and amend NR 406.03, to amend NR 410.03(intro.) and to create NR 406.03(2) and NR 410.03(l)(bm) Wis. Admin. Code, effective June 1, 2007. This revision allows WDNR to issue a waiver to a source allowing it to commence construction prior to a construction permit being issued. This provision is only allowed for minor sources which meet specific criteria. These revisions also revise Wisconsin's fee provisions to allow a fee to be charged for the waiver. EPA has determined that this revision is approvable under the Act.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative Code are incorporated by reference:

(A) NR 406.03 as published in the (Wisconsin) Register, May 2007, No. 617, effective June 01, 2007.

(B) NR 410.03(intro.) and NR 410.03(l)(bm) as published in the (Wisconsin) Register, May 2007, No. 617, effective June 01, 2007.

[FR Doc. E8-4582 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD201-3117; FRL-8536-3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Update to Materials Incorporated by Reference; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change; correcting amendment.

SUMMARY: This document corrects an omission in the part 52 Identification of Plan table for Maryland which summarizes the applicable source-specific requirements which comprise the current EPA-approved Maryland State Implementation Plan (SIP).

DATES: *Effective Date:* This action is effective March 11, 2008.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814-2108 or by e-mail at frankford.harold@epa.gov.

SUPPLEMENTARY INFORMATION: On May 18, 2007 (72 FR 27957), EPA published an update of materials submitted by Maryland that are incorporated by reference (IBR) into the Maryland State implementation plan (SIP) as of March 15, 2007. The regulations and source-specific requirements affected by this update (summarized in the tables cited as 40 CFR 52.1070(c) and (d) respectively) had been previously submitted by the Maryland Department of the Environment (MDE) and approved by EPA. In the table cited as

40 CFR 52.1070(d) (*EPA-approved source-specific requirements*), we inadvertently omitted an entry describing the EPA-approved Amended Consent Order for the Potomac Electric Power Company (PEPCO)—Dickerson Plant (#49352). This action updates the IBR materials to correct the omission of the Amended Consent Order for the PEPCO—Dickerson Plant, corrects the erroneous omission of the source-specific entry for PEPCO-Dickerson from the table in 40 CFR 52.1070(d), and reprints the paragraph (d) table in its entirety. All SIP materials incorporated by reference in paragraph (d) are available for public inspection at the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, the EPA Regional Office, and the National Archives and Records Administration.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this rule is not substantive and imposes no regulatory requirements, but merely corrects a citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore 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)). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility

provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This 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.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this 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, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of March 11, 2008. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action to update the materials incorporated by reference and correct the table in 40 CFR 52.1070(d) for Maryland is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

Dated: February 21, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

■ 2. Section 52.1070 is amended by revising paragraph (d) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(d) *EPA approved state source-specific requirements.*

Name of source	Permit number/type	State effective date	EPA approval date	Additional explanation
(PEPCO)—Chalk Point Units #1 and #2.	#49352 Amended Consent Order ...	1/27/78	4/2/79; 44 FR 19192	52.1100(c)(22); FRN republished 5/3/79 (44 FR 25840).
Potomac Electric Power Company (PEPCO)—Dickerson.	#49352 Amended Consent Order ...	7/26/78	12/6/79; 44 FR 70141	52.1100(c)(25).
Beall Jr./Sr. High School	Consent Order	1/30/79	3/18/80; 45 FR 17144	52.1100(c)(26).
Mt. Saint Mary's College	Consent Order	3/8/79	3/18/80; 45 FR 17144	52.1100(c)(26).
Potomac Electric Power Company (PEPCO)—Chalk Point.	Secretarial Order	7/19/79	9/3/80; 45 FR 58340	52.1100(c)(34).
Maryland Slag Co	Consent Agreement (Order)	10/31/80	9/8/81; 41 FR 44757	52.1100(c)(49).
Northeast Maryland Waste Disposal Authority.	Secretarial Order	11/20/81	7/7/82; 47 FR 29531	52.1100(c)(65) (Wheelabrator-Frye, Inc.).
Northeast Maryland Waste Disposal Authority and Wheelabrator-Frye, Inc. and the Mayor and City Council of Baltimore and BEDCO Development Corp.	Secretarial Order	2/25/83	8/24/83; 45 FR 55179	52.1100(c)(70) (Shutdown of landfill for offsets).
Westvaco Corp	Consent Order	9/6/83; Rev. 1/26/84	12/20/84; 49 FR 49457	52.1100(c)(74).
Potomac Electric Power Company(PEPCO).	Administrative Consent Order	9/13/99	12/15/00; 65 FR 78416	52.1100(c)(151).
Thomas Manufacturing Corp	Consent Decree	2/15/01	11/15/01; 66 FR 57395	52.1100(c)(167).
Constellation Power Source Generation, Inc.-Brandon Shores Units #1 & 2; Gould Street Unit #3; H.A. Wagner Units #1, 2, 3 & 4; C.P. Crane Units #1 & 3; and Riverside Unit #4.	Consent Order and NO _x RACT Averaging Plan Proposal.	4/25/01	2/27/02; 67 FR 8897	52.1100(c)(168).
Kaydon Ring and Seal, Inc	Consent Order	3/5/04	8/31/04; 69 FR 53002	(c)(190); SIP effective date is 11/1/04.
Perdue Farms, Inc	Consent Order	2/1/05	1/11/07; 72 FR 1291	52.1070(d)(1).

* * * * *

[FR Doc. E8-4566 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****[Docket No. 071106671-8010-02]****RIN 0648-XG19****Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska**

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the A season allowance of the 2008 total allowable catch (TAC) of pollock

specified for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 7, 2008, through 2400 hrs, A.l.t., December 31, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 21, 2008.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648-XG19, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>;
- *Mail:* P.O. Box 21668, Juneau, AK 99802;
- *Fax:* (907) 586-7557; or
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

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: 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 2008 pollock TAC specified for vessels in Statistical Area 610 in the GOA is 3,322 metric tons (mt) as established by the 2008 and 2009 harvest specifications for groundfish of

the GOA (73 FR 10562, February 27, 2008).

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on January 22, 2008 (73 FR 4493, January 25, 2008). The fishery reopened on March 3, 2008 for 24 hours (73 FR 12031, March 6, 2008).

As of March 4, 2008, NMFS has determined that approximately 3,050 mt of pollock remain in the directed fishing allowance in Statistical Area 610 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2008 TAC of pollock in Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA, effective 1200 hrs, A.l.t., March 7, 2008.

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) and 50 CFR 679.25(c)(1)(ii) 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 opening of pollock in Statistical Area 610 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 March 4, 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.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 610 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 21, 2008.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 6, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 08-1001 Filed 3-6-08; 2:55 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070816465-8008-02]

RIN 0648-AV96

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Bycatch Management

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to repeal regulations providing for a groundfish vessel incentive program (VIP) that was designed to reduce the rate at which Pacific halibut and red king crab are taken as incidental catch in Alaska groundfish trawl fisheries. The VIP has not performed as intended because of the costs associated with implementation and enforcement, the relatively small number of vessels covered by the regulation, and the implementation of more effective bycatch reduction programs. This action is necessary to reduce a regulatory burden on the industry and to reduce the administrative costs necessary to support a program no longer considered an effective means to reduce bycatch rates.

DATES: Effective April 10, 2008.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available on the Alaska Region Web site at <http://www.fakr.noaa.gov>. Printed copies can be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian.

FOR FURTHER INFORMATION CONTACT: Ben Muse, 907-586-7228, or ben.muse@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery

Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Fisheries off Alaska targeting groundfish incidentally catch other species. Some of these non-groundfish species are themselves the objects of valuable targeted fisheries and retention of these species is prohibited in the groundfish fishery. These prohibited species include Pacific halibut, Chinook and "other" salmon, several crab species, and herring. Measures to restrict the catch of these species have been incorporated into the FMPs and regulations at 50 CFR part 679. Among these measures are prohibited species catch (PSC) limits that restrict the amount of a prohibited species that may be taken incidentally in a groundfish fishery. Groundfish fisheries are routinely closed in all or part of a management area when a PSC limit is reached. These closures are expensive for industry because they mean that valuable groundfish are left unharvested.

Section 3.6.4 of the Gulf of Alaska (GOA) FMP authorizes regulations to reduce halibut bycatch rates in fisheries subject to halibut PSC limits to increase the opportunity to fish groundfish total allowable catches (TACs) before established PSC limits are reached.

Section 3.6.4 of the Bering Sea and Aleutian Island (BSAI) FMP allows for implementation of regulatory measures to provide incentives to individual vessels to reduce bycatch rates of prohibited species for which PSC limits are established. While the GOA provisions are limited to halibut, the BSAI provisions authorize the creation of incentive programs to reduce the bycatch of red king crab, as well as halibut.

Vessel Incentive Program

Regulations at 50 CFR 679.21(f) implement a vessel incentive program (VIP) under the authority of the FMPs. The program creates incentives for individual groundfish trawl operators to reduce their incidental catch rates of halibut and red king crab by imposing penalties on operators whose incidental catch rates exceed specified standards. Under the program, the Alaska Regional

Administrator is required to publish fishery-specific bycatch rate standards for halibut in the GOA and BSAI, and red king crab in the BSAI two times a year. Observer data on the catch composition of harvests in subject fisheries is statistically analyzed. Vessels that exceed the published bycatch rate standards are subject to prosecution. The program became effective in mid-1991.

The VIP imposes potential costs on fishermen with high observed prohibited species bycatch rates. This has created an incentive for fishermen to reduce these observed rates. They can do this by changing the patterns of their fishing behavior. They can also do this by manipulating the observer reported rates. Anecdotal evidence from knowledgeable persons in the Observer Program and NOAA Enforcement suggests that the incidence of these activities may be high. Pre-sorting may affect the accuracy of observer reports of halibut and red king crab bycatch.

Effective enforcement of the VIP imposes significant costs on the Observer Program and NMFS. Resources for the management of the program and enforcement of the rule have to be taken from other high priority management and enforcement responsibilities. It also is not clear from experience with the program that it has had, or will have, a significant deterrent effect or has led to the harvest of significant additional amounts of target groundfish.

Furthermore, the establishment of fishery cooperatives and the stringent catch monitoring provisions implemented by NMFS to monitor cooperative-specific allocations of groundfish and prohibited species, including halibut and red king crab, are additional means to reduce bycatch. Cooperative members receive a joint allocation of PSC, and this creates incentives and capabilities for cooperatives to control individual operation PSC bycatch rates to maximize the value of the cooperative's PSC allocation.

In June 2003 the Council initiated an amendment to repeal the VIP given concerns about its effectiveness, its potential to absorb resources that could be utilized by other, important management and enforcement functions, and the incentive created to pre-sort bycatch, as well as developments in other bycatch reduction programs that have occurred since 1991. In October 2003, the Council reviewed a NMFS discussion paper and made a preliminary identification of alternatives for analysis. In December 2003 the Council reiterated its approval of the alternatives it had adopted in

October and scheduled initial review of the draft for its April 2004 meeting.

In October 2006 the Council initially reviewed the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and (a) identified repeal of the VIP regulations, without modification of authorizing language in the FMPs, as its preferred alternative; (b) approved release of the EA/RIR/IRFA for public review; and (c) scheduled final action for its December 2006 meeting in Anchorage, Alaska. In December 2006 the Council took final action, adopting the preferred alternative it had identified in October 2006.

The proposed rule for the repeal of the VIP regulations was published in the **Federal Register** on November 30, 2007 (72 FR 67692). The public comment period ended on December 31, 2007. No comments were received.

Final Regulatory Changes

This action repeals 50 CFR 679.21(f), which imposes the requirement for compliance with the VIP and describes procedures for assignment of vessels to fisheries, notification of bycatch rate standards, analysis of the factors on which bycatch rate standards are to be based, public comment, publication of notification in the **Federal Register**, use of observer data to calculate rates, calculation of individual vessel rates, and determining whether a vessel is in compliance with bycatch rate standards.

This action also would repeal 50 CFR 679.7(a)(5) which specifically prohibits vessels from exceeding a bycatch rate standard specified under 50 CFR 679.21(f).

This action does not modify the BSAI and GOA FMPs, which contain language authorizing the Council to develop a new VIP if it chooses.

Regulations at 50 CFR 679.50(k) authorize NMFS Alaska Region to publish individual vessel bycatch rates for specified prohibited species. Nothing in this final rule would affect this authority, and the Alaska Region will continue to publish these bycatch rates on its Web site.

Changes from Proposed Rule

This rule does not change the authority citation for 50 CFR part 679. The proposed rule inadvertently said that the authority citation was revised, although it did not identify any revisions. In the final rule, the phrase "is revised" has been replaced with the words "continues to read."

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the groundfish fisheries, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a FRFA as required by section 604 of the Regulatory Flexibility Act. The FRFA describes the economic impact this final rule, if adopted, would have on small entities. A copy of the FRFA is available from NMFS (see **ADDRESSES**). A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the **SUMMARY** section of the preamble. A summary of the remainder of the analysis follows.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) to accompany the proposed rule. The proposed rule described the IRFA and explained to the public how to obtain a copy. No comments were received on the IRFA or the economic effects of the proposed rule.

In 2005 a total of 78 catcher vessels and 3 catcher/processor vessels reported gross annual receipts of \$4.0 million or less from fishing groundfish and other species using trawl gear in the GOA, and can therefore be characterized as small entities under the Small Business Administration (SBA) size standards. Between 2002 and 2005, the total number of trawl vessels generating \$4.0 million or less in revenue has ranged from a low of 81 in 2004 and 2005, to a high of 112 in 2002. Average gross revenue (from all fishing sources in Alaska) generated by these vessels was approximately \$840,000 in 2005, which was an increase from \$730,000 in 2004 and \$590,000 in 2002. Thus, the final alternatives may directly regulate between 81 and 112 small entities in the GOA. There has been a general decline in the number of vessels that qualify as small entities in the GOA, so the most recent (2005) estimate of 81 vessels was used for the analysis. This estimate is likely an overestimate of the number of small entities actually directly regulated by this action since it does not account for affiliations among entities. Data necessary to fully assess such linkages are not currently available.

The BSAI has a larger number of trawl vessels that are considered small entities than the GOA. In 2005, 99 catcher vessels and 2 catcher/processor vessels reported gross annual receipts of

\$4.0 million or less, from all their fishery production off Alaska. Between 2002 and 2005, the total number of vessels categorized as small entities in these BSAI fisheries has ranged from a low of 101 in 2005 to a high of 123 in 2002. Between 2002 and 2003, the average gross revenue (from all Alaskan fishing sources) generated by these vessels has ranged from a low of \$1.20 million in 2003 to a high of \$1.60 million in 2005. Thus, the final alternatives may directly regulate, on average, 113 trawl vessels that are considered small entities. This estimate is likely an overestimate of the number of small entities actually directly regulated by this action, since it does not account for affiliations among entities. As is the case for the GOA, data necessary to fully assess such linkages are not currently available.

Two alternatives to the preferred one were examined. Alternative 1 was the "No Action" alternative. Under this alternative the VIP would have remained in place. This alternative would have involved a renewed commitment to investigating violations, and prosecuting violators. As noted earlier, the Council and NMFS have had concerns about the effectiveness of this program and its potential to mislead estimates of PSC incidental catches. Moreover, cooperatives offer new methods to control PSC bycatch rates. Alternative 2 would retain the program, but would reduce the frequency with which PSC rates are published. The analysis of Alternatives 1 and 2 is the same, except that Alternative 2 has somewhat lower administrative costs because PSC rates are not published as often. Alternative 3, which would repeal the VIP provisions of regulation, was

chosen as the final alternative because it was the only alternative that meets the objectives of this action.

Alternatives 1 and 2 would renew the VIP. If the VIP were effective, it could lead to reduced bycatch rates and the harvest of larger proportions of TACs in certain trawl fisheries. However, as noted, there are important concerns about the program's potential for successful reduction in bycatch rates. As a practical matter, 100 percent observer coverage is required to make a case against a trawl operator for exceeding the PSC rate. This level of observer coverage is available only on trawl vessels greater than or equal to 125 feet LOA. Enforcement efforts would be principally directed against this class of vessels. Small entities, as defined by the Small Business Administration (SBA), could exist among both vessels greater than or equal to 125 feet length overall (LOA), and less than or equal to 125 feet LOA. Alternative 3 would best meet the objective of this action and avoid the potential costs that might be imposed on directly regulated small entities by enforcement activities.

This regulation would not impose new recordkeeping and reporting requirements on the regulated small entities.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity

compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules.

The preamble to this final rule serves as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of this final rule are available from NMFS (see **ADDRESSES**) and at the following Web site: <http://www.fakr.noaa.gov>.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 6, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR 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.

§ 679.7 [Amended]

■ 2. In § 679.7, remove and reserve paragraph (a)(5).

§ 679.21 [Amended]

■ 3. In § 679.21, remove and reserve paragraph (f).

[FR Doc. E8–4810 Filed 3–10–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 73, No. 48

Tuesday, March 11, 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-2008-0265; Directorate Identifier 2007-NM-349-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Bombardier Model CL-600-2B19 airplanes. The existing AD currently requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with new or serviceable MLG main fittings if necessary. The existing AD also currently requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. This proposed AD would require replacement of the MLG main fittings with new improved MLG main fittings, which would terminate the repetitive inspections of the MLG main fittings and inspection and servicing of the MLG shock struts. This proposed AD results from premature failure of the MLG main fittings. We are proposing this AD to prevent failure of the MLG main fittings, which could result in collapse of the MLG upon landing.

DATES: We must receive comments on this proposed AD by April 10, 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.

For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

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:

Pong K. Lee, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7324; fax (516) 794-5531.

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-2008-0265; Directorate Identifier 2007-NM-349-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, 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

On May 20, 2003, we issued AD 2003-11-11, amendment 39-13170 (68 FR 31956, May 29, 2003), for certain Bombardier Model CL-600-2B19 airplanes. That AD requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with new or serviceable MLG main fittings if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. That AD resulted from issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. We issued that AD to prevent failure of the MLG main fittings, which could result in collapse of the MLG upon landing.

Actions Since Existing AD Was Issued

Since we issued AD 2003-11-11, Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that it has certified a new design of the MLG main fitting. Installation of the new improved MLG main fittings would eliminate the need for the repetitive inspections of the MLG main fittings and the inspection and servicing of the MLG shock struts.

The preamble to AD 2003-11-11 explains that we consider the requirements "interim action" and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Other Related Rulemaking

On December 21, 2006, we issued AD 2007-01-07, amendment 39-14879 (72 FR 1430, January 12, 2007), for Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes having serial numbers (S/Ns) 7003 through 7067 inclusive and S/Ns 7069 through 8999 inclusive, equipped with MLG main fittings having part number (P/N) 601R85001-3 or -4 (Messier-Dowty P/N 17064-101, -102, -103, or -104). That AD requires

repetitive inspections for cracks, sealant damage, and corrosion of the main fittings of the MLG, and corrective actions if necessary. That AD also requires replacement of both main fittings of the MLG with new main fittings, which terminates the repetitive inspections. That AD resulted from a report of a cracked main fitting of the MLG. We issued that AD to detect and correct fatigue cracking of the main fitting of the MLG and consequent failure of the main fitting, which could result in the collapse of the MLG. For certain airplanes, accomplishing the replacements in accordance with paragraph (l) of AD 2007–01–07 is considered acceptable for compliance with the replacement specified in this proposed AD.

On January 29, 2007, we issued AD 2007–03–19, amendment 39–14930 (72 FR 5925, February 8, 2007), for certain Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes having S/Ns 7003 and subsequent, equipped with MLG main fittings having P/N 601R85001–81 and –82 (Messier-Dowty P/N 17064–105 and –106). That AD requires repetitive detailed and eddy current inspections of the main fittings of the MLGs to detect discrepancies, and related investigative/corrective actions if necessary. That AD also requires servicing the shock strut of the MLGs; inspecting the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage; and servicing any discrepant strut. That AD also requires installing a new improved MLG main fitting, which terminates the repetitive inspections and servicing requirements. That AD resulted from stress analyses that showed certain main fittings of the MLG are susceptible to premature cracking, starting in the radius of the upper lug. We issued that AD to detect and correct premature cracking of the main fittings of the MLGs, which could result in failure of the fittings and consequent collapse of the MLGs during landing. The requirements of AD 2007–03–19 do not affect the actions specified in this proposed AD, since AD 2007–03–19 is applicable to airplanes equipped with different MLG main fittings.

Relevant Service Information

Bombardier has issued Service Bulletin 601R–32–093, Revision B, dated July 14, 2005. The service bulletin describes procedures for replacing the MLG main fittings with new improved MLG main fittings having P/Ns 601R85001–83 and –84 (Messier-Dowty P/Ns 17064–107 and –108). Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF–1999–32R3, dated September 21, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA’s Determination and Requirements of the Proposed AD

These airplanes are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA’s findings, evaluated all pertinent information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2003–11–11 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under “Difference Between the Proposed AD and Canadian Airworthiness Directive.”

Difference Between the Proposed AD and Canadian Airworthiness Directive

Canadian airworthiness directive CF–1999–32R3 specifies replacing the MLG main fittings by June 30, 2007, which is a compliance time of about 21 months after issuance of Canadian airworthiness directive CF–1999–32R3. This proposed AD, however, would require replacing the MLG main fittings within 6 months after the effective date of the AD. In

developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer’s recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the replacements. In light of all of these factors, we find a compliance time of 6 months for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with TCCA.

Change to Existing AD

This proposed AD would retain all requirements of AD 2003–11–11. Since AD 2003–11–11 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS	
Requirement in AD 2003–11–11	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).
Paragraph (d)	Paragraph (i).
Paragraph (e)	Paragraph (j).
Paragraph (f)	Paragraph (k).
Paragraph (g)	Paragraph (l).
Paragraph (h)	Paragraph (m).
Paragraph (i)	Paragraph (n).
Paragraph (j)	Paragraph (o).
Paragraph (k)	Paragraph (p).
Paragraph (l)	Paragraph (q).

Costs of Compliance

The following table provides the estimated costs, at an average labor rate of \$80 per work hour, for U.S. operators to comply with this proposed AD. Due to other existing ADs, the proposed actions have already been accomplished on the majority of affected U.S.-registered airplanes; therefore, the estimated costs will be significantly less than those specified in the table.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed inspection (required by AD 2003-11-11).	1	None	\$80, per inspection cycle.	618	\$49,440, per inspection cycle
Eddy current inspection (required by AD 2003-11-11).	1	None	\$80, per inspection cycle.	618	\$49,440, per inspection cycle
Fluorescent penetrant inspection (required by AD 2003-11-11).	1	None	\$80, per inspection cycle.	618	\$49,440, per inspection cycle
Inspection and servicing of shock struts (required by AD 2003-11-11).	2	None	\$160, per inspection cycle.	618	\$98,880, per inspection cycle
Replacement (new proposed action).	56	Up to \$35,000	Up to \$39,480	618	\$24,398,640

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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 that the 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-13170 (68 FR 31956, May 29, 2003) and adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly Canadair):
Docket No. FAA-2008-0265; Directorate Identifier 2007-NM-349-AD.

Comments Due Date

- (a) The FAA must receive comments on this AD action by April 10, 2008.

Affected ADs

- (b) This AD supersedes AD 2003-11-11.

Applicability

(c) This AD applies to Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category; having serial numbers (S/Ns) 7003 and subsequent, equipped with main landing gear (MLG) main fittings having part numbers (P/Ns) 601R85001-3 and -4 (Messier-Dowty P/Ns 17064-101, -102, -103, and -104).

Unsafe Condition

(d) This AD results from premature failure of the MLG main fittings. We are issuing this AD to prevent failure of the MLG main

fittings, which could result in collapse of the MLG upon landing.

Compliance

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

Note 1: Where there are differences between the referenced service bulletin and the AD, the AD prevails.

Restatement of Requirements of AD 2003-11-11**Service Bulletin References**

(f) Accomplishment of the inspections and servicing, as applicable, specified in paragraphs (h), (l), (m), and (n) of this AD, per Bombardier Alert Service Bulletin A601R-32-079, dated December 3, 1999; Revision 'A,' dated January 7, 2000; Revision 'B,' dated June 1, 2000; Revision 'C,' dated October 26, 2000; or Revision 'D,' dated December 1, 2000; prior to June 13, 2003 (the effective date of AD 2003-11-11), is considered acceptable for compliance with the requirements of paragraphs (h), (l), (m), and (n) of this AD.

(g) The term "service bulletin," as used in paragraphs (h) through (q) of this AD, means the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R-32-079, Revision 'E,' dated September 12, 2002; including Appendix 1, Revision D, dated September 12, 2002; including Appendices 2 and 3, dated September 12, 2002.

Initial Eddy Current Inspection

(h) Perform an eddy current inspection to detect cracking of the MLG main fittings, per PART B of the service bulletin, at the earlier of the times specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Prior to the accumulation of 1,500 total flight cycles on the MLG, or within 150 flight cycles after December 4, 2001

(the effective date of AD 2001–22–09, amendment 39–12488, which was superseded by AD 2003–11–11), whichever occurs later.

(2) Prior to the accumulation of 1,000 total flight cycles on the MLG, or within 150 flight cycles after June 13, 2003, whichever occurs later.

Repetitive Eddy Current Inspections

(i) Repeat the eddy current inspection specified in paragraph (h) of this AD at the time specified in paragraph (i)(1), (i)(2), or (i)(3), as applicable, except as provided by paragraph (i)(4) of this AD, per PART B of the service bulletin.

(1) For airplanes on which the eddy current inspection required by paragraph (g) of this AD is accomplished after June 13, 2003: Repeat the inspection at intervals not to exceed 500 flight cycles.

(2) For airplanes on which the repetitive eddy current inspection required by AD 2001–22–09 has been accomplished, and on which the repetitive intervals have been increased per paragraph (j) of AD 2001–22–09 before June 13, 2003: Repeat the inspection within 500 flight cycles after June 13, 2003, or within 1,000 flight cycles since the last eddy current inspection, whichever occurs first, and thereafter at intervals not to exceed 500 flight cycles.

(3) For airplanes on which the repetitive eddy current inspection required by AD 2001–22–09 has been accomplished, and on which the repetitive intervals have not been increased per paragraph (j) of AD 2001–22–09 before June 13, 2003: Repeat the eddy current inspection at intervals not to exceed 500 flight cycles.

(4) For airplanes on which an eddy current inspection has been accomplished to confirm the detailed inspection required by paragraph (o) of this AD: The next eddy current inspection must be done within 500 flight cycles following the last detailed inspection required by paragraph (o) of this AD, and thereafter at intervals not to exceed 500 flight cycles.

Corrective Actions

(j) If no cracking of the MLG main fittings is suspected during the next eddy current inspection required by paragraph (h) or (i) of this AD, but the paint has been removed: Prior to further flight, apply a new finish and install the harness clamp on the brake line with the bolt, washers, nut, and cotter pin; per PART B of the service bulletin.

(k) If any cracking of the MLG main fittings is found during any eddy current inspection required by paragraph (h) or (i) of this AD: Prior to

further flight, replace any cracked MLG main fitting with a new or serviceable part per the service bulletin.

Servicing the Shock Struts

(l) Prior to the accumulation of 1,500 total flight cycles on the MLG shock struts, or within 500 flight cycles after December 4, 2001, whichever occurs later: Service (Oil and Nitrogen) the left and right MLG shock struts per PART C (for airplanes on the ground) or PART D (for airplanes on jacks) of the service bulletin.

Other Inspections

(m) Within 500 flight cycles after completing the actions required by paragraph (l) of this AD: Inspect the MLG left and right shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with PART E of the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles.

Corrective Actions for Certain Inspections

(n) If the chrome extension dimension of the shock strut pressure reading is outside the limits specified in the Airplane Maintenance Manual, Task 32–11–05–220–801, or any oil leakage is found during any inspection required by paragraph (m) of this AD: Prior to further flight, service the MLG shock strut in accordance with PART C (for airplanes on the ground) or PART D (for airplanes on jacks) of the service bulletin.

Detailed and Follow-On Inspections and Corrective Action

(o) Prior to the accumulation of 1,000 total flight cycles on the MLG, or within 250 flight cycles after June 13, 2003, whichever occurs later: Accomplish a detailed inspection of the MLG main fittings to detect signs of cracking (including linear paint cracks along the circumference of the main fitting tube, lack of paint (paint peeling) or other paint damage, lack of adhesion or paint bulging, and signs of corrosion), per PART A of the service bulletin. Repeat the inspection thereafter at intervals not to exceed 100 flight cycles.

Note 2: For the purposes of this AD, a detailed inspection is defined as: “An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.”

(p) If any linear paint crack along the circumference of the main fitting tube, lack of paint (paint peeling) or other paint damage, evidence of paint bulging due to lack of adhesion, or evidence of corrosion is found during any inspection required by paragraph (o) of this AD: Prior to further flight, accomplish either an eddy current inspection to detect cracking, per PART B of the service bulletin; or a fluorescent penetrant inspection to detect cracking, per PART F of the service bulletin.

(1) If no cracking of the MLG main fittings is found during any inspection required by paragraph (p) of this AD: Prior to further flight, repaint and/or repair/rework any paint damage per PART B of the service bulletin.

(2) If any cracking of the MLG main fittings is found during any inspection required by paragraph (p) of this AD: Prior to further flight, replace any cracked MLG main fitting with a new or serviceable part per the service bulletin.

Reporting Requirement

(q) Within 30 days after each inspection and servicing required by paragraphs (h), (i), (l), (m), (o), and (p) of this AD, report all findings, positive or negative, to: Bombardier Aerospace, In-Service Engineering, fax number 514–855–8501. Although the service bulletin references completion of a “Service Bulletin Comment Sheet-Facsimile Reply Sheet,” this AD does not require that action. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

New Requirements of This AD

Replacement

(r) Within 6 months after the effective date of this AD, replace the MLG main fittings with new improved MLG main fittings, in accordance with Bombardier Service Bulletin 601R–32–093, Revision B, dated July 14, 2005. Replacing the MLG main fittings terminates the requirements of paragraphs (h) through (q) of this AD.

Credit for Actions Done According to Previous Issues of the Service Bulletin

(s) Replacements done before the effective date of this AD in accordance with Bombardier Service Bulletin 601R–32–093, dated October 17, 2003; or Revision A, dated September 21, 2004; are acceptable for compliance with the requirements of paragraph (r) of this AD.

Credit for AD 2007-01-07

(t) For airplanes having S/Ns 7003 through 7067 inclusive and S/Ns 7069 through 8999 inclusive, equipped with MLG main fittings having P/N 601R85001-3 or -4 (Messier-Dowty P/N 17064-101, -102, -103, or -104): Accomplishing the replacements required by paragraph (l) of AD 2007-01-07, amendment 39-14879, is acceptable for compliance with the requirements of paragraph (r) of this AD.

Alternative Methods of Compliance (AMOCs)

(u)(1) The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

(3) AMOCs issued to allow escalation of the repetitive intervals for the eddy current inspections from 500 to 1,000 flight cycles in accordance with paragraph (e) of AD 2001-22-09 are not approved as AMOCs with this AD.

Note 3: Information concerning the existence of AMOCs with this AD, if any, may be obtained from the New York ACO.

Related Information

(v) Canadian airworthiness directive CF-1999-32R3, dated September 21, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 3, 2008.

Ali Bahrami,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. E8-4769 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2008-0268; Directorate Identifier 2008-NM-050-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the 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:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

The assessment showed that it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. * * *

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 10, 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 W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Mazdak Hobbi, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7330; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:**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-2008-0268; Directorate Identifier 2008-NM-050-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2008-07, dated January 25, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The

identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

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

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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions

associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued CRJ 700/900 Series Regional Jet Temporary Revision 2-222, dated March 30, 2006, to Section 3, "Fuel System Limitations," of Part 2 of Bombardier CL-600-2C10, CL-600-2D15 and CL-600-2D24 Maintenance Requirements Manual CSP B-053. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would allow revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness in accordance with later revisions of the maintenance requirements manual (MRM) as an acceptable method of compliance if the CDCCL is part of a later approved MRM revision, or if the CDCCL is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators

to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

We might also have 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

Based on the service information, we estimate that this proposed AD would affect about 297 products of U.S. registry. We also estimate that it would take about 1 work-hour 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 \$23,760, or \$80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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:

Bombardier, Inc. (Formerly Canadair):

Docket No. FAA-2008-0268; Directorate Identifier 2008-NM-050-AD.

Comments Due Date

- (a) We must receive comments by April 10, 2008.

Affected ADs

- (b) None.

Applicability

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

Subject

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

Reason

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

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

The assessment showed that it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revision has been made to Bombardier CL-600-2C10, CL-600-2D15, CL-600-2D24 Maintenance Requirements Manual, CSP B-053, Part 2, Section 3, "Fuel System Limitations" to introduce the required CDCCL. The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCL data specified in CRJ 700/900 Series Regional Jet (Bombardier) Temporary Revision 2-222, dated March 30, 2006, to Section 3, "Fuel System Limitations," of Part 2 of Bombardier CL-600-2C10, CL-600-2D15 and CL-600-2D24 Maintenance Requirements Manual CSP B-053.

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

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Section 3, "Fuel System Limitations," of Part 2 of Bombardier CL-600-2C10, CL-600-2D15 and CL-600-2D24 Maintenance Requirements Manual CSP B-053, Revision 9, dated July 20, 2007, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mazdak Hobbi, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7330; fax (516) 794-5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF-2007-35, dated December 21, 2007, and CRJ 700/900 Series Regional Jet (Bombardier) Temporary Revision 2-222, dated March 30, 2006, for related information.

Issued in Renton, Washington, on March 5, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-4770 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0267; Directorate Identifier 2008-NM-030-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model DHC-8-400, DHC-8-401, and DHC-8-402 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the 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:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

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

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 10, 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 W12–40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7304; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

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–2008–0267; Directorate Identifier 2008–NM–030–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2008–06, dated January 15, 2008 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

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

The corrective action is revising the Airworthiness Limitations Section of

the Instructions for Continued Airworthiness to include the CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled “Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements” (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (“SFAR 88,” Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result

in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued Temporary Revisions (TRs) ALI-55 and ALI-56, both dated April 19, 2006, to Part 2, "Airworthiness Limitations Items," (AWL) of the Bombardier Dash 8 Q400 Maintenance Requirements Manual PSM 1-84-7. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would allow revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness in accordance with later revisions of the maintenance requirements manual (MRM) as an acceptable method of compliance if the CDCCL is part of a later approved MRM revision, or if the CDCCL is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

provided in the MCAI and related service information.

We might also have 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

Based on the service information, we estimate that this proposed AD would affect about 45 products of U.S. registry. We also estimate that it would take about 1 work-hour 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 \$3,600, or \$80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA-2008-0267; Directorate Identifier 2008-NM-030-AD.

Comments Due Date

- (a) We must receive comments by April 10, 2008.

Affected ADs

- (b) None.

Applicability

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

Subject

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

Reason

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

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

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

Requirements Manual of the affected models to introduce the required CDCCL.

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

Actions and Compliance

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

(1) For all airplanes: Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs specified in Bombardier Temporary Revisions (TRs) ALI-55, dated April 19, 2006; and ALI-56, dated April 19, 2006; to Part 2, "Airworthiness Limitations Items," of the Bombardier Dash 8 Q400 Maintenance Requirements Manual (MRM) PSM 1-84-7.

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

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Bombardier Dash 8 Q400 MRM PSM 1-84-7, Revision 4, dated October 30, 2003, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7304; fax (516) 794-5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from

a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF-2008-06, dated January 15, 2008; and Bombardier TRs ALI-55 and ALI-56, both dated April 19, 2006; for related information.

Issued in Renton, Washington, on March 5, 2008.

Ali Bahrami,

*Manager, Transport Airplane Directorate,
Airframe Certification Service.*

[FR Doc. E8-4771 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0269; Directorate Identifier 2007-NM-320-AD]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes. This proposed AD would require replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new improved relays. This proposed AD would also require a revision to the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28-AWL-20. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel

vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by April 25, 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.

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Jen Pei, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6409; fax (425) 917-6590.

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-2008-0269; Directorate Identifier 2007-NM-320-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, 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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during

which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

The power control relays for the fuel boost and override pumps must be replaced with new relays that include a ground fault interrupter (GFI) feature. The GFI is designed to detect electrical faults and open the circuit prior to pump housing burn-through. Burn-through due to electrical arcing could create a potential ignition source inside the center fuel tank. This condition in combination with flammable fuel vapors, if not corrected, could result in a fuel tank explosion and consequent loss of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737-28A1201, dated February 19, 2007. The service bulletin describes procedures for replacing the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a GFI feature.

The Boeing service bulletin refers to Honeywell Service Bulletin 1151932-24-61, dated November 10, 2006, as an additional source of service information for replacing the power control relays in the P91 power distribution panel. The Boeing service bulletin also refers to Honeywell Service Bulletin 1151934-24-62, dated November 10, 2006, as an additional source of service information for replacing the power control relays in the P92 power distribution panels.

We have also reviewed Section 9 of the Boeing 737-600/700/800/900

Maintenance Planning Data (MPD) Document, D626A001-CMR, Revision March 2007 R2 (hereafter referred to as "Revision March 2007 of the MPD"). Subsection F, "AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS AWLs," of Revision March 2007 of the MPD describes new airworthiness limitations (AWLs) for fuel tank systems. Subsection F of Revision March 2007 of the MPD adds new fuel system AWL No. 28-AWL-20, which is a repetitive operational check of the GFI for all alternating current fuel tank boost pumps to ensure continued functionality of the GFI circuit.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require the following actions:

- Replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a GFI feature.
- Revision to the AWLs section of the Instructions for Continued Airworthiness to incorporate AWL No. 28-AWL-20, which would require repetitive operational checks of the GFI for all alternating current fuel tank boost pumps to ensure continued functionality.

This proposed AD would also allow accomplishing the revision to the AWLs section of the Instructions for Continued Airworthiness in accordance with later revisions of the MPD as an acceptable method of compliance if they are approved by the Manager, Seattle Aircraft Certification Office, FAA.

Costs of Compliance

We estimate that this proposed AD would affect 754 aircraft of U.S. registry. The following table provides the estimated costs, at an average labor rate of \$80 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Fleet cost
Installation of GFI relays	8	\$11,010	\$11,650	\$8,784,100
Maintenance program revision	1	None	\$80	\$60,320

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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

Boeing: Docket No. FAA-2008-0269; Directorate Identifier 2007-NM-320-AD.

Comments Due Date

(a) We must receive comments by April 25, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737-28A1201, dated February 19, 2007.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (i) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Replacement

(f) Within 60 months after the effective date of this AD, replace the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new improved relays having a ground fault interrupter (GFI) feature, in accordance with the Accomplishment Instructions of the service bulletin.

Note 2: The Boeing service bulletin refers to Honeywell Service Bulletin 1151932-24-61 and Honeywell Service Bulletin 1151934-24-62, both dated November 10, 2006, as additional sources of service information for replacement of the power control relays in the P91 and P92 power distribution panels.

Airworthiness Limitations (AWLs) Revision

(g) Concurrently with accomplishing the actions specified in paragraph (f) of this AD, revise the AWLs section of the Instructions

for Continued Airworthiness by incorporating AWL No. 28-AWL-20 of Subsection F of the Boeing 737-600/700/800/900 Maintenance Planning Data (MPD) Document, D626A001-CMR, Section 9, Revision March 2007 R2 (hereafter referred to as "the MPD").

No Alternative Inspections or Inspection Intervals

(h) After accomplishing the action specified in paragraph (g) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or intervals are part of a later revision of the MPD that is approved by the Manager, Seattle ACO; or unless the inspections or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle ACO, FAA, ATTN: Jen Pei, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6409; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Issued in Renton, Washington, on March 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-4773 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0266; Directorate Identifier 2008-NM-013-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model DHC-8-102, DHC-8-103, DHC-8-106, DHC-8-201, DHC-8-202, DHC-8-301, DHC-8-311, and DHC-8-315 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the 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:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

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

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 10, 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 W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Airframe and Propulsion Branch, ANE-

171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7330; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

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-2008-0266; Directorate Identifier 2008-NM-013-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2008-03, dated January 3, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525-001, to determine if mandatory corrective action is required.

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

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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued de Havilland temporary revisions (TRs) to Part 2

“Airworthiness Limitations List” (AWL) of the de Havilland Dash 8 Series Maintenance Program Manuals (MPMs).

The TRs are listed in the following table titled “TRs to the DHC–8 MPMs.”

TRs TO THE DHC–8 MPMs

de Havilland TR	TR date	de Havilland MPM
AWL–98	April 12, 2006	Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7.
AWL 2–35	April 12, 2006	Dash 8 Series 200 MPM, PSM 1–82–7.
AWL 3–103	April 12, 2006	Dash 8 Series 300 MPM, PSM 1–83–7.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA’s Determination and Requirements of This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would allow revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness in accordance with later revisions of the MPM as an acceptable method of compliance if the CDCCL is part of a later approved MPM revision, or if the CDCCL is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD’s effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

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

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

We might also have 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

Based on the service information, we estimate that this proposed AD would affect about 118 products of U.S. registry. We also estimate that it would take about 1 work-hour 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 \$9,440, or \$80 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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:

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

Comments Due Date

- (a) We must receive comments by April 10, 2008.

Affected ADs

- (b) None.

Applicability

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

Subject

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

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

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

The corrective action is revising the Airworthiness Limitations Section of the

Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

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

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

TABLE 1.—TEMPORARY REVISIONS

Model	de Havilland TR	Maintenance program manual
DHC–8–102, DHC–8–103, and DHC–8–106 airplanes.	AWL–98, dated April 12, 2006	Part 2, “Airworthiness Limitations List,” of de Havilland Dash 8 Series 100 MPM, Product Support Manual (PSM) 1–8–7.
DHC–8–201, and DHC–8–202 airplanes.	AWL 2–35, dated April 12, 2006 ...	Part 2, “Airworthiness Limitations List,” of de Havilland Dash 8 Series 200 MPM, PSM 1–82–7.
DHC–8–301, DHC–8–311, and DHC–8–315 airplanes.	AWL 3–103, dated April 12, 2006	Part 2, “Airworthiness Limitations List,” of de Havilland Dash 8 Series 300 MPM, PSM 1–83–7.

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

is identical to that in the applicable TR, and the temporary revision may be removed.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Part 2, “Airworthiness Limitations List,” of the applicable de Havilland Dash 8 Series MPM

listed in Table 2 of this AD, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

TABLE 2.—MPMS

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

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mazdak Hobbi, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7330; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal

inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2008–03, dated January 3, 2008,

and the TRs specified in Table 1 of this AD, for related information.

Issued in Renton, Washington, on March 5, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4772 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION**16 CFR Part 306****RIN #3084-AA45****Automotive Fuel Ratings, Certification and Posting****AGENCY:** Federal Trade Commission ("FTC" or "Commission").**ACTION:** Notice of proposed rulemaking; request for public comment.

SUMMARY: Section 205 of the Energy Independence and Security Act of 2007 requires the Federal Trade Commission to promulgate biodiesel labeling requirements. In accordance with this directive, the FTC is publishing proposed amendments to its rule for "Automotive Fuel Ratings, Certification, and Posting" ("Fuel Rating Rule" or "Rule"). The Commission is seeking comment on proposed changes to the Rule.

DATES: Written comments must be received on or before April 7, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Proposed Rule for Biodiesel Labeling, Matter No. R811005" 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 H-159 (Annex F), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, and the first page of the document must be clearly labeled "Confidential" and must comply with Commission Rule 4.9(c).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 filed in electronic form should be submitted by clicking on the following: <https://secure.commentworks.com/ftc-biodiesel> and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-

based form at <https://secure.commentworks.com/ftc-biodiesel>. You also may visit <http://www.regulations.gov> to read this proposed Rule, and may file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should also be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget ("OMB"), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. postal mail at OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://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>.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing for these amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register**, stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit, on or before March 24, 2008, a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, or Matthew Wilshire, (202) 326-2976, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal

Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 205 of the Energy Independence and Security Act of 2007 ("EISA" or the "Act") (Pub. L. 110-140) requires the Commission to promulgate biodiesel labeling requirements within 180 days of the law's passage. The Act addresses three categories of biodiesel blends and sets out prescriptive requirements for labeling two of them. The Act also contains definitions for the terms "biomass-based diesel," "biodiesel," and "biomass-based diesel and biodiesel blends" (hereinafter referred to collectively as "biodiesel fuels"). In response to this statutory directive, the Commission is proposing amendments to the Fuel Rating Rule (16 CFR Part 306) to incorporate these Congressionally mandated labeling requirements. Under the amendments, the rating and certification requirements of the existing rule apply to biodiesel fuels. This Notice provides background on the Fuel Rating Rule, a short description of biodiesel, information about the new statutory requirements for biodiesel fuel labeling contained in EISA, and a detailed description of the proposed requirements for the labeling of biodiesel fuels at fuel pumps.

I. The Fuel Rating Rule

The Commission first promulgated the Fuel Rating Rule (then titled the "Octane Certification and Posting Rule") in 1979 in accordance with the Petroleum Marketing Practices Act ("PMPA") (15 U.S.C. § 2821 *et seq.*).² In response to amendments to the PMPA, the Commission expanded the scope of the Fuel Rating Rule in 1993 to cover liquid alternative fuels such as ethanol and liquefied natural gas (58 FR 41356 (Aug. 3, 1993)). The PMPA gives the Commission authority to designate methods for fuel rating, fuel certification, and posting for fuels at the point of sale. See 15 U.S.C. § 2822. The PMPA defines automotive fuel broadly to include "liquid fuel of a type distributed for use as a fuel in any motor vehicle." The coverage of the Fuel Rating Rule is consistent with the PMPA and covers any alternative liquid fuel distributed for use in any motor vehicle including, but "not limited to," methanol, denatured ethanol, liquefied

¹ Any request for confidential treatment, including the factual and legal basis for the request, must accompany the comment 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).

² In accordance with section 203(d)(1) of the PMPA (15 U.S.C. § 2823(d)(1)), this proceeding is being conducted pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. § 553), except that interested persons are being afforded the opportunity to present oral, as well as written, data, views and arguments.

natural gas, and coal-derived liquid fuels.³

II. Biodiesel Fuels

“Biodiesel,” as defined by EISA, is a diesel fuel produced by using alcohol to transform animal fat or vegetable oil into automotive fuel. Specifically, EISA (Pub. L. 110–140, § 205(c)) defines “biodiesel” to mean “the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet: (1) the registration requirements for fuels and fuel additives under this section;⁴ and (2) the requirements of ASTM [American Society for Testing and Materials] standard D6751.”⁵ Biodiesel serves as a substitute for diesel fuel for some diesel vehicles and is usually blended with diesel for sale at retail pumps. According to the Department of Energy, biodiesel in the U.S. is usually made from soybean oil or recycled restaurant grease. Estimates suggest that biodiesel sales increased from 15 million gallons in 2002 to 250 million gallons in 2006.⁶ In addition to biodiesel, EISA contains requirements for “biomass-based diesel,” defined as a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. § 7545.⁷ Finally, EISA

(§ 205(c)(4)) defines “biomass-based diesel and biodiesel blends” to mean a “blend of ‘biomass-based diesel’ or ‘biodiesel’ fuel that is blended with petroleum based diesel fuel.”

Though the FTC has never specifically addressed fuel labeling requirements for biodiesel fuels, the broad authority under the PMPA allows the Commission to include those fuels under the rating, certification, and posting requirements of the Fuel Rating Rule. Given Congress’s specific directive in EISA to promulgate biodiesel fuel labeling requirements, we now are proposing to amend the Fuel Rating Rule to include biodiesel fuels in accordance with the directive of EISA.⁸

III. EISA’s Directive

EISA (Pub. L. 110–140, § 205(a)) states that “[e]ach retail diesel fuel pump shall be labeled in a manner that informs consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the Federal Trade Commission.” EISA also addresses three different categories of biodiesel fuel blends, requiring labels with specific wording on biodiesel fuel pumps for two of them. For fuel blends containing five percent or less biodiesel fuel that meet ASTM D975 (“Standard Specification for Diesel Fuel Oils”), no specific label is required.⁹ For fuel blends between five and no more than twenty percent, EISA (Pub. L. 110–140, § 205(b)(2)) requires the label to state that the fuel blend “contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent.” For fuel blends that contain more than twenty percent biodiesel or biomass-based diesel, the statute (Pub. L. 110–140, § 205(b)(3)) mandates that the label state that the fuel blend “contains more than 20 percent biomass-based diesel or biodiesel.”

Although Section 205 of EISA furnishes precise, mandatory label language, the Act (Pub. L. 110–140, § 205(a)) does leave the FTC with

discretion to determine the specific size, layout, and color of the required label, as well as to require any additional wording necessary to “inform consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel or biodiesel blend that is offered for sale.”

IV. Proposed Revisions to the Fuel Rating Rule

Consistent with the provisions of EISA, the Commission is proposing to amend the Fuel Rating Rule. These changes: 1) incorporate the definitions for the terms “biomass-based diesel,” “biodiesel,” and “biomass-based diesel and biodiesel blends” contained in Section 205 of EISA; 2) amend the definition of “automotive fuel” to make clear that biodiesel fuels are subject to the rating and certification requirements of the Fuel Rating Rule; and 3) require labeling of biodiesel fuels containing more than five percent biomass-based diesel or biodiesel that is consistent with the Congressionally mandated language in Section 205 of EISA and with state model rules proposed by the National Conference on Weights and Measures (“NCWM”).

A. Definitions

As noted above, Section 205 of EISA requires the Commission to promulgate labeling requirements for “biomass-based diesel,” “biodiesel,” and “biomass-based diesel and biodiesel blends,” as those terms are defined in the Section 205(c) of the statute. The Commission, therefore, proposes adding the statutorily required terms to Section 306.0 of the Fuel Rating Rule.

B. Alternative Fuels, Automotive Fuel Rating, and Certification

Section 306.0(i)(2) of the Rule currently lists examples of alternative fuels, but specifically states that alternative fuels are “not limited to” those listed. The proposed amendments expressly add biomass-based diesel and biodiesel, as well as blends containing more than five percent biodiesel or biomass-based diesel, to this non-exclusive list. By specifically including these terms, the amendments clarify that biodiesel fuels are covered by the rating and certification requirements of Part 306 of the Rule.¹⁰

Incorporating biodiesel fuels into the Fuel Rating Rule and subjecting them to

³ In 1993, the Commission explained that “[t]he Fuel Rating Rule . . . applies to all present and future alternative liquid automotive fuels.” 58 FR 41355, 41358 (Aug. 3, 1993).

⁴ Though EISA’s definition of “biodiesel” refers to the registration requirements for fuels and fuel additives under “this section,” there are no such registration requirements in section 205 of EISA nor are there any in the FTC’s Fuel Rating Rule (16 CFR Part 306). Accordingly, we assume the phrase “this section” in EISA’s definition of “biodiesel” is intended to refer to the Environmental Protection Agency’s (“EPA’s”) registration requirements for fuels and fuel additives (40 CFR Part 79 “Registration of Fuels and Fuel Additives”) issued pursuant to 42 U.S.C. § 7545. Those requirements constitute EPA’s regulatory program for the registration of motor vehicle diesel fuel (including biodiesel), motor vehicle gasoline, and their additives. Therefore the definition of “biodiesel” in the proposed Rule references the requirements of 40 CFR Part 79.

⁵ ASTM D6751 is titled: “Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels.”

⁶ See http://www1.eere.energy.gov/biomass/renewable_diesel.html (2002 estimate) and http://www.biodiesel.org/pdf_files/fuel/factsheets/Biodiesel_Sales_Graph.pdf (2006 estimate).

⁷ EISA defines “biomass-based diesel” by referencing the definition of the term “biodiesel” provided in Section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. § 13220(f)). The definition reads: “a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under [42 U.S.C. § 7545],” and includes fuel derived from “(i) animal wastes, including poultry fats and poultry wastes, and other

waste materials; or (ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater.” 42 U.S.C. § 13220(f)(1)(A) and (B).

⁸ The Fuel Rating Rule currently does not specify labeling requirements for petroleum-based diesel. See 58 FR 41356, 41368 (Aug. 3, 1993). We are not proposing such requirements for diesel fuel as part of this proceeding.

⁹ EISA states that fuel in this category “shall not require any additional labels.” Pub. L. 110–140, § 205(b)(1). This appears to mean that biodiesel and biomass-based diesel blends at five percent or less do not require any specific label identifying the product as biodiesel but that any labels otherwise applicable to such diesel fuel will continue to apply.

¹⁰ Consistent with EISA (Pub. L. 110–140, § 205(b)(1)), the amendments to Section 306.0 would also indicate that biodiesel blends that contain less than or equal to five percent biomass-based diesel or biodiesel by volume, and that meet ASTM D975, are not automotive fuels covered by the requirements of this Rule.

these rating and certification requirements will help ensure the accuracy of the information on biodiesel fuel labels. The current rating requirements in Section 306.5 and the certification procedures in Section 306.6 provide the means to substantiate fuel ratings throughout the chain of sale. Under the current Rule, refiners, importers, producers, and distributors of alternative liquid automotive fuels must have "competent and reliable evidence" supporting their advertised fuel rating (Sec. 306.5(b) and Sec. 306.8(b)). In addition, sellers must certify that percentage when they transfer the fuel to anyone other than a consumer (Sec. 306.6 and Sec. 306.8(c)). The proposed amendments will ensure that these requirements apply to biodiesel fuels sold at retail pumps.¹¹

Finally, to comply with EISA's labeling requirements, the proposed amendments make minor changes to the rating and certification provisions of the Rule for biodiesel fuel blends. First, the amendments would modify certain language in the Rule's certification provision (Sec. 306.5(b)) to clarify that biodiesel fuel blends should be rated by the percentage of biodiesel or biomass-based diesel in the fuel, not necessarily by the percentage of the principal component of the fuel as is the case with other alternative fuels.¹² Second, the certification requirements in Section 306.6(b) currently allow transferors of alternative automotive fuels to certify fuel ratings with a letter of certification and provide that this letter remains valid so long as the fuel transferred contains the same or a greater rating of the principal component. However, an increase in the concentration of biodiesel or biomass-based diesel in an automotive fuel may trigger different labeling requirements under EISA if the increase moves the fuel into a different blend category (e.g., an increase from B-15 to B-30). Therefore, the proposed amendment to Section 306.6(b) states that if transferors of biodiesel fuels choose to use a letter of certification, that letter will be valid only as long as the fuel transferred contains the same percentage of biodiesel or biomass-based diesel as previous fuel transfers covered by the letter.

¹¹ It is the responsibility of any entity rating biodiesel blends under Section 306.5 to determine the amount of biodiesel in the fuel it sells. This includes the need to account for biodiesel in any diesel fuel it uses to create such blends (e.g., diesel fuel containing biodiesel at five percent or less).

¹² For example, a twenty-five percent biodiesel blend should be rated as twenty-five percent biodiesel, not seventy-five percent diesel.

C. Labeling

The labeling or "posting" requirements in the proposed amendments employ the language mandated by Congress in EISA and are consistent with the content and format of existing labels for other alternative fuels such as ethanol and propane. In accordance with Section 205 of EISA and consistent with the FTC's authority under the PMPA, the proposed Rule addresses three biodiesel blend fuel categories. First, the proposed Rule does not require labels for biodiesel fuels containing no more than five percent biomass-based diesel or biodiesel, provided that they meet the specifications for diesel fuel contained in ASTM D975. Second, for biodiesel fuel blends of more than five percent but not more than twenty percent biomass-based diesel and biodiesel, the proposed label contains the language required by Congress in Section 205(b)(2) of EISA and additional disclosures as discussed below. Third, for biodiesel fuels containing more than twenty percent, the proposed label contains the language required by Congress in Section 205(b)(3) of EISA. In addition, pursuant to our authority under the PMPA and consistent with EISA's direction, the proposed amendments specify a label for neat biodiesel (i.e., 100 percent biodiesel or "B-100").

In addition to the specific disclosures required by EISA, the proposed labels contain fuel terms on the top of the label that are consistent with both the draft model rules proposed by the NCWM and the Fuel Rating Rule's treatment of other alternative fuels. Specifically, the proposed labels for biodiesel fuels containing more than five but no more than twenty percent biomass-based diesel or biodiesel require at the top of the label either: 1) the capital letter "B" followed first by a numeric representation of the percentage of biodiesel or biomass-based diesel and then by the term "biodiesel blend," such as "B-20 Biodiesel Blend"; or 2) the term "Biodiesel Blend."¹³ For biodiesel fuel blends containing more than twenty percent, the proposed labels require the specific blend designation (e.g., "B-80") of the fuel followed by the term "biodiesel blend," such as "B-80 Biodiesel Blend." For

neat biodiesel (i.e., B-100), the label requires the words "B-100 Biodiesel" along with the explanatory text "contains 100 percent biomass-based diesel or biodiesel." Inclusion of these terms on the proposed label is consistent with draft model rules currently under consideration by the NCWM.¹⁴ It is also consistent with the Fuel Rating Rule's labels for other alternative fuels, which must disclose the type of alternative fuel at the top of the label (e.g., "E-85" for eighty-five percent ethanol blends).

Consistent with the model rules under consideration by the NCWM, the proposed Rule allows pump labels for biodiesel fuel blends from more than five to twenty percent biomass-based diesel and biodiesel to contain the generic term "biodiesel blend" without specifying the percentage of biodiesel or biomass-based diesel fuel. Under this approach, sellers have the flexibility to provide specific percentages in this blend category but are not required to do so. It is our understanding that the blend categories set by Congress and recommended by the NCWM (i.e., no greater than five percent, greater than five percent but no more than twenty percent, and greater than twenty percent) reflect thresholds that are important with regard to engine compatibility and vehicle warranties. For example, many original equipment manufacturers and customer service departments do not recommend use of biodiesel fuel blends over five percent for many vehicles.¹⁵ For some vehicles, however, consumers can use blends of twenty percent or less biodiesel or biomass-based diesel without triggering engine compatibility or warranty concerns.¹⁶ Accordingly, a precise percentage (e.g., "B-10") on the label may not be necessary for the more than five to twenty percent category as long as the label clearly indicates that the fuel, in fact, contains more than five but no greater than twenty percent.

With respect to blends above twenty percent, it is our understanding that these fuels are infrequently sold at retail and that customers purchasing such fuels are more likely to be concerned about applicable percentages.¹⁷

¹⁴ See "National Conference on Weights and Measures Laws and Regulations Committee & Petroleum Subcommittee Interim Meeting for the 93rd NCWM Annual Conference; Supplement to NCWM Publication 15," (Section 3.15).

¹⁵ See, e.g., "OEM Warranty Statements and Use of Biodiesel Blends over 5% (B5)," National Biodiesel Board, available at: http://www.biodiesel.org/pdf_files/B5_warranty_statement_32206.pdf.

¹⁶ *Id.*

¹⁷ See ASTM D6751, Note 2 ("A considerable amount of experience exists in the U.S. with a 20%

Therefore, a requirement for specific percentages appears to be warranted for this category. We seek comments on these issues. In particular, should the Rule allow such a non-specific percentage designation ("biodiesel blend") for fuel between more than five and twenty percent, or should the Rule require on the label specific percentages for all blends over five percent? Additionally, should blends over twenty percent allow a generic term on the label in lieu of a specific percentage designation on the label?

The proposed rule language sets forth the specific size, font, and format requirements for the draft labels. These requirements are consistent with those in place for other alternative liquid fuels in the Rule (*see* Sec. 306.12). In one departure from existing requirements, we are proposing a purple (PMS¹⁸ 2562 or its equivalent) background for all biodiesel fuel labels. The purple background is designed to allow retail consumers to distinguish biodiesel fuels easily from other fuels sold at retail pumps such as gasoline (yellow octane label) and E-85 (orange label) and helps minimize the likelihood that consumers will use the wrong fuel in their vehicle. The Commission invites comment on whether the proposed color is appropriate. Sample illustrations of biodiesel fuel labels can be found in the proposed amendments at Section 306.12(f).

V. Questions for Comment

The Commission seeks comments on all aspects of the proposed rule. All comments should be filed as prescribed in the "ADDRESSES" section above, and must be received on or before April 7, 2008. In addition to any questions and requests for comment found throughout this Notice, we ask that commenters address the following questions:

(1) What costs or burdens, or any other impacts, do the proposed requirements impose, and on whom? What evidence supports the asserted costs, burdens, or other impacts?

(2) What modifications, if any, should be made to the proposed requirements to increase their benefits to consumers?

(a) What evidence supports your proposed modifications? Please submit any such evidence.

(b) How would these modifications affect the costs and benefits of the proposed

requirements for consumers?

(c) How would these modifications affect the costs and benefits of the proposed requirements for businesses, and in particular small businesses?

(3) What modifications, if any, should be made to the proposed requirements to decrease their burdens on businesses?

(a) What evidence supports your proposed modifications? Please submit any such evidence.

(b) How would these modifications affect the costs and benefits of the proposed requirements for consumers?

(c) How would these modifications affect the costs and benefits of the proposed requirements for businesses, and in particular small businesses?

(4) Should the Rule allow a non-specific percentage designation ("biodiesel blend") for biodiesel blends over five and no more than twenty percent? Or should the Rule require specific percentages on the label for all blends over five percent? If so, why and how? If not, why not? What evidence supports your answer(s)? Please submit any such evidence.

(5) Should the Rule require a specific designation (e.g., "B-80") for biodiesel blends over twenty percent? Or, should the Rule allow a generic designation for such blends? If so, why and how? If not, why not? What evidence supports your answer(s)? Please submit any such evidence.

(6) Of fuels containing biodiesel sold in the United States, approximately what percentage contains no more than five percent biodiesel? What percentage contains more than five and no more than twenty percent biodiesel? What percentage contains more than twenty percent biodiesel? What evidence supports your answer(s)? Please submit any such evidence.

(7) Of fuels containing biomass-based diesel sold in the United States, approximately what percentage contains no more than five percent biomass-based diesel? What percentage contains more than five and no more than twenty percent biomass-based diesel? What percentage contains more than twenty percent biomass-based diesel? What evidence supports your answer(s)? Please submit any such evidence.

(8) Is purple (PMS 2562) an appropriate background color for the biodiesel blend and biodiesel label? If not, what color would be appropriate? What evidence supports your answer(s)? Please submit any such evidence. In lieu of a purple label, should the FTC consider a blue label (PMS 277)?

(9) Would the Commission's proposed biodiesel label cause confusion with regard to any label currently used for diesel (or any other fuel) at retail pumps? If so, how? Are there any changes that the Commission could make to its proposal to eliminate such confusion in a manner that also complies with Congress's directive? What evidence supports your conclusions?

VI. Paperwork Reduction Act

The proposed certification and labeling requirements constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501–3520) ("PRA"). Consistent with the Fuel Rating Rule's requirements for other alternative fuels, the proposed amendments require refiners, producers, importers, distributors, and retailers of biodiesel fuels to retain, for one year, records of any delivery tickets, letters of certification, or tests upon which they based the automotive fuel ratings that they certify or post. The covered parties also must make these records available for inspection by Commission and Environmental Protection Agency staff or by persons authorized by the Commission or the Environmental Protection Agency. Finally, retailers must produce, distribute, and post fuel rating labels on fuel pumps. Therefore, the Commission will submit the proposed requirements to OMB for review under the PRA before issuing a final rule.

The Commission has previously estimated the burden associated with the Rule's recordkeeping requirements for the sale of automotive fuels to be no more than five minutes per year per industry member, and it has previously estimated the burden associated with the Rule's disclosure requirements to be no more than 1/8th of an hour per year per industry member. The recordkeeping "burden," for OMB purposes, does not include efforts that a covered party would expend in any event. 5 CFR 1320.3(b)(2). Therefore, the estimated burden for the Fuel Rating Rule does not include recordkeeping in which covered industry members already engage in their normal course of business.

Because the procedures for distributing and selling biodiesel fuels are no different from those for other automotive fuels, the Commission expects that, consistent with practices in the fuel industry generally, the covered parties in the biodiesel fuel industry will record the fuel rating certification on documents (e.g., shipping receipts) already in use, or will

blend of biodiesel Although biodiesel (B100) can be used, blends of over 20% biodiesel with diesel fuel . . . should be evaluated on a case by case basis until further experience is available."

¹⁸ Pantone Matching System. We are also proposing conforming changes to allow the use of non Pantone equivalents for other alternative fuels.

use a one-time letter of certification. Furthermore, the Commission expects that labeling of biodiesel fuel pumps will be consistent with practices in the fuel industry generally. The information collection burden, therefore, will be the same as that for other automotive fuels: five minutes per year for recordkeeping and 1/8th hour per year for disclosure.

Based on statistics provided by the National Biodiesel Board ("NBB"), the Commission estimates that there are approximately 200 producers of biodiesel, 2000 distributors of biodiesel, and 1500 retailers of biodiesel.¹⁹ Conservatively assuming that each producer, distributor, and retailer of biodiesel is a distinct entity, and that each seller of biodiesel will spend five minutes per year complying with the proposed recordkeeping requirements and assuming that each retailer will spend 1/8th of an hour per year complying with the proposed disclosure requirements, the Commission estimates the incremental annual burden to be 309 hours for recordkeeping (1/12th of an hour per year times 3700 entities) and 188 hours (1/8th of an hour per year times 1,500 retailers). To ensure the accuracy of this burden estimate, however, the Commission seeks comment on the paperwork burden that the proposed requirements may impose to ensure that the Commission has not overlooked any additional burden.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. §§ 601–612, requires an agency to provide an Initial Regulatory Flexibility Analysis ("IRFA") with a proposed rule and a Final Regulatory Flexibility Analysis ("FRFA") with the final rule, if any, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. §§ 603–605.

The FTC does not expect that the proposed amendments will have a significant economic impact on a substantial number of small entities. As explained in Section VI above, each

entity in the biodiesel industry will spend, at most, five minutes per year complying with the proposed recordkeeping requirements and 1/8th of an hour per year complying with the disclosure requirements. Staff estimates the mean hourly wage for employees of producers, importers, and distributors of biodiesel fuels to be \$21.39,²⁰ and the mean hourly wage for employees of biodiesel retailers to be \$14.35.²¹ Conservatively assuming that all biodiesel producers, distributors, and retailers are small entities, compliance with the recordkeeping requirements will cost producers and distributors \$1.61 per year (\$19.34 times 1/12th of an hour) and retailers \$1.20 (\$14.35 times 1/12th of an hour). In addition, under the same conservative assumptions, compliance with the proposed disclosure requirements will cost retailers \$1.79 (\$14.35 times 1/8th of an hour).

In addition, retailers will incur the cost of procuring and replacing fuel dispenser labels to comply with the disclosure requirements of the Rule. Staff has previously estimated that the price per automotive fuel label is about fifty cents and that the average automotive fuel retailer has 6 dispensers. Applying those estimates to the biodiesel fuel industry results in an initial cost to retailers of \$3.00 (6 pumps times \$0.50). In addition, staff has previously estimated the useful life of dispenser labels to range from 6 to 10 years. Assuming a useful life of 8 years, the mean of that range, and distributing the costs on a per-year basis, staff estimates the total annual replacement labeling cost to be \$0.06 (1/8 x \$0.50).

This document serves as notice to the Small Business Administration of the agency's certification of no effect. Nonetheless, the Commission has determined that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed amendments on small entities. Therefore, the Commission has prepared the following analysis.

A. Description of the reasons that action by the agency is being considered.

Section 205 of EISA (Pub. L. 110–140) requires the Commission to promulgate biodiesel labeling requirements.

B. Statement of the objectives of, and legal basis for, the proposed rule.

The Commission is proposing these amendments to implement Congressionally mandated labeling for biodiesel fuels.

C. Description of and, where feasible, estimate of the number of small entities to which the proposed rule will apply.

We assume that all affected entities (200 producers of biodiesel, 2000 distributors of biodiesel, and 1200 retailers of biodiesel) are small businesses. The Commission invites comment and information on this issue.

D. Projected reporting, recordkeeping, and other compliance requirements.

The proposed amendments make clear that the recordkeeping and certification requirements of the Fuel Rating Rule apply to biodiesel. Small entities potentially affected are producers, distributors, and retailers of biodiesel fuels. The Commission expects that the recordkeeping and certification tasks are done by industry members in the normal course of their business. Accordingly, we do not expect the proposed amendments to require any professional skills beyond those already employed by industry members.

E. Other duplicative, overlapping, or conflicting federal rules.

The FTC has identified no other federal statutes, rules, or policies that conflict with the proposed amendments.

F. Alternatives Considered.

The requirements proposed by the amendments are minimal and, as noted above, do not require creating any separate documents because covered parties may use documents already in use to certify a biodiesel fuel's rating. The Commission believes that the proposed amendments minimize what, if any, economic impact there is from the labeling requirements mandated by Sec. 205 of EISA.

VIII. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(4).

IX. Proposed Rule Language

List of Subjects in 16 CFR Part 306

Energy conservation, Gasoline, Incorporation by reference, Labeling,

¹⁹ Because the biodiesel industry is young, estimates of its size may not be as accurate as estimates of the size of more mature industries. Therefore, we have conservatively rounded up from the actual statistics provided by the NBB. In a document dated January 25, 2008, the NBB estimated a total of 171 producers of biodiesel and biodiesel blends. See http://biodiesel.org/pdf_files/fuelfactsheets/Production_Capacity.pdf. In addition, the NBB's website lists all known distributors (<http://www.biodiesel.org/buyingbiodiesel/distributors/showall.asp>) and retailers (<http://www.biodiesel.org/buyingbiodiesel/retailfuelingsites/showall.asp>) of biodiesel. As of February 4, 2008, the site listed approximately 1250 retailers and 1775 distributors of biodiesel and biodiesel blends.

²⁰ Bureau of Labor Statistics, 2006 Employment Statistics Survey, Annual Average Hourly Earnings for Oil and Gas Extraction Production workers.

²¹ Bureau of Labor Statistics, May 2006 Occupational Employment Statistics Survey, "Correspondence Clerks," Table 1.

Reporting and recordkeeping requirements.

For the reasons set out above, the Commission proposes the following amendments to 16 CFR Part 306:

PART 306—AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING

1. The authority citation for part 306 continues to read as follows:

Authority: 15 U.S.C. 2801 *et seq*; Pub. L. 110–140.

2. Section 306.0(i)(2) is revised to read as follows:

306.0 Definitions.

* * * * *

(i) * * *

(2) Alternative liquid automotive fuels, including, but not limited to:

(i) Methanol, denatured ethanol, and other alcohols;

(ii) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary of the United States Department of Energy, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;

(iii) Liquefied natural gas;

(iv) Liquefied petroleum gas;

(v) Coal-derived liquid fuels;

(vi) Biodiesel;

(vii) Biomass-based diesel;

(viii) Biomass-based diesel blends containing more than 5 percent biomass-based diesel by volume; and

(ix) Biodiesel blends containing more than 5 percent biodiesel by volume.

* * * * *

3. Section 306.0(i)(3) is added to read as follows:

§ 306.0 Definitions.

* * * * *

(i) * * *

(3) Biodiesel blends that contain less than or equal to 5 percent biomass-based diesel or biodiesel by volume, and that meet American Society for Testing and Materials (ASTM) standard D975 (“Standard Specification for Diesel Fuel Oils”), are not automotive fuels covered by the requirements of this Part. The incorporation of ASTM D975 by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D975 may be obtained from American Society of Testing and Materials, 1916 Race Street, Philadelphia, PA, 19103, or may be inspected at the Federal Trade Commission, Public Reference Room,

Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C., or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>.

* * * * *

4. Section 306.0(j)(3) is added to read as follows:

306.0 Definitions.

* * * * *

(j) * * *

(3) For biomass-based diesel, biodiesel, and blends thereof, a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume.

5. Section 306.0 is amended by adding paragraphs (k), (l), and (m) to read as follows:

306.0 Definitions.

* * * * *

(k) *Biomass-based diesel* means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. § 7545, and includes fuel derived from animal wastes, including poultry fats and poultry wastes, and other waste materials, or from municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater.

(l) *Biodiesel* means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet:

(1) The registration requirements for fuels and fuel additives under 40 CFR Part 79; and

(2) The requirements of the ASTM standard D6751 (“Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels”). The incorporation of ASTM D6751 by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of ASTM D6751 may be obtained from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA, 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C., or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>.

(m) *Biodiesel blend* means a blend of biomass-based diesel or biodiesel fuel that is blended with petroleum-based diesel fuel.

6. Section 306.5(b) is revised to read as follows:

306.5 Automotive fuel rating.

* * * * *

(b) To determine automotive fuel ratings for alternative liquid automotive fuels, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the principal component of the alternative liquid automotive fuel that you must disclose, or, in the case of biodiesel blends, the percentage of biodiesel or biomass-based diesel contained in the fuel. You also must have a reasonable basis, consisting of competent and reliable evidence, for the minimum percentages by volume of other components that you choose to disclose.

7. Section 306.6(b) is revised to read as follows:

306.6 Certification.

* * * * *

(b) Give the person a letter or other written statement. This letter must include the date, your name, the other person’s name, and the automotive fuel rating of any automotive fuel you will transfer to that person from the date of the letter onwards. Octane rating numbers may be rounded to a whole or half number equal to or less than the number determined by you. This letter of certification will be good until you transfer automotive fuel with a lower automotive fuel rating, except that a letter certifying the fuel rating of biomass-based diesel, biodiesel, and biodiesel blends will be good only until you transfer those fuels with a different automotive fuel rating, whether the rating is higher or lower. When this happens, you must certify the automotive fuel rating of the new automotive fuel either with a delivery ticket or by sending a new letter of certification.

* * * * *

8. Section 306.10(f) is revised to read as follows:

306.10 Automotive fuel rating posting.

* * * * *

(f) The following examples of automotive fuel rating disclosures for some presently available alternative liquid automotive fuels are meant to serve as illustrations of compliance with this part, but do not limit the Rule’s coverage to only the mentioned fuels:

(1) “Methanol/Minimum ____% Methanol”

(2) "Ethanol/Minimum ____% Ethanol"

(3) "M—85/Minimum ____% Methanol"

(4) "E—85/Minimum ____% Ethanol"

(5) "LPG/Minimum ____% Propane" or "LPG/Minimum ____% Propane and ____% Butane"

(6) "LNG/Minimum ____% Methane"

(7) "B—20 Biodiesel Blend/contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent"

(8) "B—100 Biodiesel/contains 100 percent biomass-based diesel or biodiesel"

* * * * *

9. In § 306.12, paragraph (a)(2) is revised to read as follows:

306.12 Labels.

* * * * *

(a) * * *

(2) *For alternative liquid automotive fuel labels (one principal component) other than biodiesel blends.* The label is 3 inch (7.62 cm) wide 2 1/2 inch (6.35 cm) long. "Helvetica black" type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1 inch (2.54 cm) deep. Spacing of the fuel name is 1/4 inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is 1/8 inch (.32 cm) from the bottom of the black band. All type below the black band is centered horizontally, with 1/8 inch (.32 cm) between each line. The bottom line of type is 3/16 inch (.48 cm) from the bottom of the label. All type should fall no closer than 3/16 inch (.48 cm) from the side edges of the label. If you wish to change the dimensions of this single component label to accommodate a fuel descriptor that is longer than shown in the sample labels, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission,

Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

* * * * *

10. In § 306.12, paragraphs (a)(4), (a)(5), and (a)(6) are added to read as follows:

306.12 Labels.

* * * * *

(a) * * *

(4) *For biodiesel blends containing more than 5 percent and no greater than 20 percent biomass-based diesel or biodiesel by volume.* The label is 3 inch (7.62 cm) wide 2 1/2 inch (6.35 cm) long. "Helvetica black" type is used throughout. All type is centered. The band at the top of the label contains either:

(i) The capital letter "B" followed immediately by the numerical value representing the volume percentage of biodiesel or biomass-based diesel in the fuel (e.g., "B—20") and then by the term "Biodiesel Blend"; or

(ii) The term "Biodiesel Blend."

The band should measure 1 inch (2.54 cm) deep. Spacing of the text in the band is 1/4 inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. Directly underneath the black band, the label shall read "contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent." The script underneath the black band must be centered horizontally, with 1/8 inch (.32 cm) between each line. The bottom line of type is 1/4 inch (.64 cm) from the bottom of the label. All type should fall no closer than 3/16 inch (.48 cm) from the side edges of the label.

(5) *For biodiesel blends containing more than 20 percent biomass-based diesel or biodiesel by volume.* The requirements are the same as in Section 306.12(a)(4), except that the black band at the top of the label shall contain the capital letter "B" followed immediately by the numerical value representing the

volume percentage of biodiesel or biomass-based diesel in the fuel (e.g., "B—70") and then the term "Biodiesel Blend." In addition, the words directly underneath the black band shall read "contains more than 20 percent biomass-based diesel or biodiesel."

(6) *For biodiesel (B—100).* The requirements are the same as in § 306.12(a)(4), except that the black band at the top of the label shall contain the phrase "B—100 Biodiesel." In addition, the words directly underneath the black band shall read "contains 100 percent biomass-based diesel or biodiesel."

* * * * *

11. In § 306.12, paragraph (c)(2) is revised and paragraph (c)(3) is added to read as follows:

306.12 Labels.

* * * * *

(c) * * * *

(2) *For alternative liquid automotive fuel labels other than biodiesel, biomass-based diesel, and biodiesel blends.* The background color on all the labels is Orange: PMS 1495 or its equivalent. The knock-out type within the black band is Orange: PMS 1495 or its equivalent. All other type is process black. All borders are process black. All colors must be non-fade.

(3) *For biodiesel, biomass-based diesel, and biodiesel blends.* The background color on all the labels is Purple: PMS 2562 or its equivalent. The knock-out type within the black band is Purple: PMS 2562 or its equivalent. All other type is process black. All borders are process black. All colors must be non-fade.

* * * * *

12. In § 306.12(f), the following graphics are added to the end of the section to read as follows:

306.12 Labels.

* * * * *

(f) * * *

B-100 Biodiesel

**contains 100 percent
biomass-based diesel
or biodiesel**

B-20 Biodiesel Blend

**contains biomass-based diesel
or biodiesel in quantities
between 5 percent and
20 percent**

By direction of the Commission.

Donald S. Clark,
Secretary

[FR Doc. E8-4699 Filed 3-10-08; 8:45 am]

BILLING CODE 6751-01-S

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA 2008-0007]

RIN 0960-AG70

Representative Payment Under Titles II, VIII and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: We propose to amend our rules governing how we investigate representative payee applicants. Under these proposed rules, any payee who has previously satisfied the payee investigation process including a face-to-face interview and is currently serving as a payee, need not appear for another face-to-face interview when making a subsequent application to become a payee, unless we determine, within our discretion, that a new face-to-face interview is necessary. This change would streamline our representative payee application process, thereby allowing payee applicants to become qualified in a shorter timeframe when they have already been investigated. This should expedite the payment of benefits in certain representative payee situations. It will also reduce the burden to the public and reduce traffic in our field offices when a payee applicant has already satisfied the face-to-face interview required by law.

DATES: To be sure that we consider your comments, we must receive them no later than *May 12, 2008*.

ADDRESSES: You may submit comments by one of four methods—Internet, facsimile, regular mail, or hand-delivery. Please do not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA-2008-0007 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments, and we strongly urge you to use it.) In the *Comment or Submission* section of the webpage, type “SSA-2008-0007”, select “Go”, and then click “Send a Comment or Submission.” The Federal eRulemaking portal issues you a tracking number when you submit a comment.

2. Telefax to (410) 966-2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by making arrangements with the contact person shown in this preamble.

Caution: Our policy for comments we receive from members of the public is to make them available for public viewing in their entirety on the Federal eRulemaking portal at <http://www.regulations.gov>. Therefore, you

should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

FOR FURTHER INFORMATION CONTACT:

Jerome Albanese, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (404) 562-1024, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

Background

Under the authority of sections 205(j), 807 and 1631(a)(2) of the Social Security Act (the Act), we select a representative payee for certain persons eligible for Social Security benefits under title II of Act, special veteran's benefits (SVBs) under title VIII of the Act, or supplemental security income under title XVI of the Act. We select a representative payee if we believe that payment through a payee rather than direct payment of benefits is in the interest of that beneficiary. Subpart U of part 404, subpart F of part 408, and subpart F of part 416 of our regulations explain the procedures that we follow in determining whether to make representative payment and in selecting a representative payee under the title II, VIII and XVI programs.

Based on 205(j)(2), 807(b) and 1631(a)(2)(B) of the Act, our current rules at §§ 404.2024 and 416.624 require that, before selecting an individual or organization to act as a person's representative payee, we will investigate a payee applicant to determine the applicant's suitability. Section 408.624 adopts these investigatory requirements for SVBs by cross-reference to § 404.2024.

An investigation includes, among other things, a face-to-face interview unless it is impracticable to do so. The Act at 205(j)(2)(A)(i), 807(b)(1)(A) and 1631(a)(2)(B)(i)(I) states that we conduct a face-to-face interview with a payee applicant to the extent practicable. Based on this authority, our current rules at §§ 404.2024 and 416.624 indicate that we generally conduct a face-to-face interview with a payee applicant each time they file to become a payee, regardless of whether the payee has already satisfied the investigation and undergone a prior face-to-face interview.

Our current rules at §§ 404.2024(b) and 416.624(b) appear to provide only one exception to the requirement for holding a face-to-face interview, and that is when such an interview is impracticable. These sections explain that a face-to-face interview is impracticable if conducting one would cause undue hardship, such as when a payee applicant would have to travel a great distance to the field office. Our current rules also indicate that we may decide it is impracticable to require subsequent face-to-face interviews for organizational payees that are known by our field office as suitable payees. We base this decision on the organization's past performance, recent contacts, and the organization's knowledge of and compliance with our reporting requirements.

Explanation of Changes

We propose to eliminate the requirement that we conduct a face-to-face interview before selecting an individual or organization to be a representative payee if we have already conducted a face-to-face with that payee and the payee is qualified and currently acting as a payee. However, we would retain discretionary authority to require a subsequent face-to-face interview of any payee applicant. In this notice of proposed rulemaking, we have proposed revisions to §§ 404.2024(b) and 416.624(b) that would accomplish these rule changes.

We propose adding a new paragraph (c), "Impracticable," to §§ 404.2024(c) and 416.624(c). This new paragraph would contain the first three sentences

of current §§ 404.2024(b) and 416.624(b), with editorial changes. We are not proposing any substantive changes to this text.

Clarity of These Proposed Rules

Executive Order (E.O.) 12866, as amended, requires each agency to write all rules in plain language. In addition to your substantive comments on these final rules, we invite your comments on how to make them easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

When Will We Start To Use These Rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

Regulatory Procedures

Executive Order 12866, as Amended

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under E.O. 12866, as amended. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—

Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96–006, Supplemental Security Income; 96–020, Special Benefits for Certain World War II Veterans.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: March 3, 2008.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart U of part 404 and subpart F of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart U—[Amended]

1. The authority citation for subpart U continues to read as follows:

Authority: Secs. 205 (a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), (j), and (k), and 902(a)(5)).

2. Amend § 404.2024 by revising paragraphs (a)(1) and (b) and by adding new paragraph (c) as follows:

§ 404.2024 How do we investigate a representative payee applicant?

* * * * *

(a) * * *

(1) Conduct a face-to-face interview with the payee applicant unless it is impracticable as explained in paragraph (c) of this section.

* * * * *

(b) *Subsequent face-to-face interviews.* After holding a face-to-face interview with a payee applicant, subsequent face-to-face interviews are not required if that applicant continues to be qualified and currently is acting as a payee, unless we determine, within our discretion, that a new face-to-face interview is necessary. We base this decision on the payee's past performance and knowledge of and compliance with our reporting requirements.

(c) *Impracticable.* We may consider a face-to-face interview impracticable if it

would cause the payee applicant undue hardship. For example, the payee applicant would have to travel a great distance to the field office. In this situation, we may conduct the investigation to determine the payee applicant's suitability to serve as a representative payee without a face-to-face interview.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart F—[Amended]

1. The authority citation for subpart F continues to read as follows:

Authority: Secs. 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(a)(2) and (d)(1)).

2. Amend § 416.624 by revising paragraphs (a)(1) and (b) and by adding new paragraph (c) as follows:

§ 416.624 How do we investigate a representative payee applicant?

* * * * *

(a) * * *

(1) Conduct a face-to-face interview with the payee applicant unless it is impracticable as explained in paragraph (c) of this section.

* * * * *

(b) *Subsequent face-to-face interviews.* After holding a face-to-face interview with a payee applicant, subsequent face-to-face interviews are not required if that applicant continues to be qualified and currently is acting as a payee, unless we determine, within our discretion, that a new face-to-face interview is necessary. We base this decision on the payee's past performance and knowledge of and compliance with our reporting requirements.

(c) *Impracticable.* We may consider a face-to-face interview impracticable if it would cause the payee applicant undue hardship. For example, the payee applicant would have to travel a great distance to the field office. In this situation, we may conduct the investigation to determine the payee applicant's suitability to serve as a representative payee without a face-to-face interview.

[FR Doc. E8-4781 Filed 3-10-08; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2008-0006]

RIN 1625-AA01

Seventh Coast Guard District, Captain of the Port Zone Jacksonville, Temporary Restricted Anchorage

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishment of three, multi-purpose, temporary restricted anchorages with associated safety/security zones to service vessels intending to call on the ports of Jacksonville or Fernandina within the Captain of the Port Zone Jacksonville as defined by 33 CFR 3.35-20. The temporary restricted anchorages and safety/security zones identify clearly to all mariners the pre-established area of the Captain of the Port Zone for geographic separation and/or restriction of certain vessels that may pose a safety, public health, environmental, or security threat to the port. The proposed temporary restricted anchorages are necessary to protect the public, port infrastructure, maritime environment, and viability of the Marine Transportation System from hazards associated with safety, public health, environmental, and security threats.

DATES: Comments and related material must reach the Coast Guard on or before April 10, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2008-0006 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand deliver:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed

rule, call Lieutenant Commander Austin Ives at Coast Guard Sector Jacksonville Prevention Department, Florida. Contact telephone is (904) 564-7563. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under ADDRESSES; but please submit your comments and material 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 this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2008-0006) in the Docket ID box, and click enter. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New

Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Coast Guard Sector Jacksonville Department, 4200 Ocean St., Atlantic Beach, FL 32233-2416, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Privacy Act

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

Public Meeting

We do not plan to hold a public meeting. You may submit a request for a meeting by writing to Coast Guard Sector Jacksonville at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

In 2003-2004, the Northeast and Eastern Central Florida, Area Maritime Security Committee initiated a project to identify potential temporary restricted anchorage areas to which the COTP could direct vessels that presented safety, public health, environmental, or security threats. The project aligned and broadened the on-going efforts of the Consolidated City of Jacksonville/Duval County Security and Emergency Preparedness Planning Council to develop contingency plans for public health threats. The site selection process for designating temporary restricted anchorages was delegated to the Jacksonville Maritime Transportation Exchange, regional Harbor Safety Committee (HSC). In determining the most efficient and effective anchorage area(s), the HSC considered impacts to the public, the environment, and maritime mobility. After detailed evaluation (site selection criteria is explained under the "Discussion of Proposed Rule" section), the committee proposed a set of temporary restricted anchorages to serve the ports of Jacksonville and Fernandina. The concept advocated three such areas (1) very near-shore, approximately four nautical miles, to facilitate quick response by medical personnel where disease and hazardous substance

exposure is not a threat to the shoreline, (2) a second area further off-shore, approximately seven nautical miles, for disease and/or threats that could pose hazardous to the general population, and (3) a final third anchorage just inside territorial seas, approximately twelve nautical miles, for grave threats that require substantial interagency planning and response.

It is anticipated that the need to use these temporary restricted anchorages will be rare. However, with clear pre-designation of the anchorages and associated safety/security zones, mariners are both informed of contingency plans and knowledgeable of requirements prior to activation. In addition, Federal, State, and Local plans will be able to clearly reference the establishment process and position of the anchorages for better contingency strategy development.

The COTP will determine on a case by case basis, depending on the nature of the threat, whether a safety or security zone is necessary for the activation of a temporary restricted anchorage.

These temporary restricted anchorages and associated safety/security zones are designed for the geographic separation and/or restriction of vessels or persons on such vessels when such vessels or persons pose or are suspected of posing a safety, public health, environmental, or security threat. Threats may include, but are not limited to, the spread of infectious disease or unauthorized transportation of hazardous or illegal substances.

The HSC recommended single-ship anchorages with an accompanying limited access area. The target ship type for said anchorages is deep draft ocean-going, ranging from large tug/barge combinations to larger cargo carriers and cruise ships.

Discussion of Proposed Rule

This proposed rule creates a set of three temporary restricted anchorages off Amelia Island, FL within the COTP Zone Jacksonville, as defined by 33 CFR 3.35-20. The proposed temporary restricted anchorages will be activated on a case by case basis by the Captain of the Port (COTP) and/or Federal Maritime Security Coordinator (FMSC) and will be disestablished when the COTP and/or FMSC releases the vessel or person on such vessel from temporary restriction.

(1) *Anchorage Locations*: General location for the set of three temporary restricted anchorage areas is four, seven, and twelve nautical miles from the shoreline, due east off Amelia Island, Florida.

(a) *Anchorage A*: When activated by the COTP/FMSC, Anchorage A will have a 500 yard safety zone or security zone, as applicable, around the point originating from approximate position 30-36N 81-21.8W.

(b) *Anchorage B*: When activated by the COTP/FMSC, Anchorage B will have a 500 yard safety or security zone, as applicable, around the point originating from approximate position 30-36N 81-18.5W.

(c) *Anchorage C*: When activated by the COTP/FMSC, Anchorage C will have a 500 yard safety or security zone, as applicable, around the point originating from approximate position 30-36N 81-13.5W.

(2) *Site Selection*: Given the close proximity of the ports of Jacksonville and Fernandina, their approach traffic lanes, and response times for collective emergency services, it is recommended that one set of anchorages be established to serve these two ports. Candidate anchorages were chosen for their sufficient water depth, holding ground, and proximity to de-facto approach lanes to the aforementioned ports.

(a) Other considerations.

(i) *Shoreline characteristics*: The NE Florida/SE Georgia coastline is primarily barrier island in nature. The proposed positioning for the set of temporary restricted anchorages is off Amelia Island. Both north and south ends of the island are State and County parks. To the north are Cumberland, Jeckyl, and St. Simon's Island. To the south are Big and Little Talbot Island. Given their size, civilian populations on the islands are very small. Cumberland and Big and Little Talbot Islands are Federal and State Parks with populations less than 50 persons combined. All of the islands are linked to the mainland by one or two bridges, except for Cumberland Island where access is only by water. With this limited access, site control to and within these areas is achievable.

(ii) *Winds*: Winds are primarily from the NE in the winter and fall and from the ESE/SE during the spring and summer months. The proposed anchorage location was selected with these wind patterns in mind because both Cumberland Island to the north and Little Talbot Island to the south are parks with limited populations and limited access. They would make good candidates for emergency response staging and/or monitoring sites.

(iii) *Right Whales*: Choosing one set of anchorage locations to service three ports reduces the potential impact to Northern Right Whale Critical Habitat and further mitigates ship-strike potential.

(iv) *Artificial Reefs*: The off-shore environment of NE Florida and SE Georgia are replete with artificial reefs. The proposed positioning of the anchorages successfully avoids impinging upon artificial reef areas with the closest reef being 2.5 NM north and seaward of the outermost anchorage.

Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS) because zone activation will be on a case by case basis only, for limited duration, at the discretion of the COTP when such action is required to protect the public, port infrastructure, and the environment.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit within an activated temporary restricted anchorage. These anchorages will not have a significant economic impact on a substantial number of small entities because zone activation will be on a case by case basis only, for a limited duration, at the discretion of the COTP when such action is required to protect the public, port infrastructure, environment, and viability of the Marine Transportation System. Additionally, vessel traffic could pass safely around the temporary restricted anchorages.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. 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 proposed 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 proposed 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 proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not affect 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 proposed 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 proposed 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 safety that may disproportionately affect children.

Indian Tribal Governments

This proposed 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 proposed 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

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

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

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

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.

2. Add § 110.184 to read as follows:

§ 110.184 Seventh Coast Guard District, Captain of the Port Zone Jacksonville, Temporary Restricted Anchorage.

(a) *Applicability.* This section applies to all vessels regardless of tonnage or service and all persons on such vessels subject to COTP authority within the COTP Zone Jacksonville as defined by 33 CFR 3.35–20.

(b) *Temporary Restricted Anchorage Zones:* The following three temporary restricted anchorage areas are established off Amelia Island, FL within the COTP Zone Jacksonville, as defined by 33 CFR 3.35–20. Each anchorage area

has an accompanying 500 yard safety/security zone, as applicable, emanating from its center point described in the following section:

(1) Anchorage A: Originates approximately four nautical miles off Amelia Island, Florida in position 30–36N 81–21.8W.

(2) Anchorage B: Originates approximately seven nautical miles off Amelia Island, Florida in position 30–36N 81–18.5W.

(3) Anchorage C: Originates approximately twelve nautical miles off Amelia Island, Florida in position 30–36N 81–13.5W.

(c) *Definitions.* The following definition applies to this section:

(1) *Temporary Restricted Anchorage* refers to off-shore areas designated for the geographic separation and/or restriction of vessels or persons on such vessels posing or are suspected of posing a safety, public health, environmental, or security threat.

(2) *Designated representatives means* Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard assets, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the temporary restricted anchorage area.

(d) *Anchorage Requirements.* Vessels directed to a temporary anchorage shall:

(1) If equipped with an Automatic Identification System (AIS), maintain it in the “on” position.

(2) Maintain a 24-hour bridge watch by an English-speaking, licensed deck officer monitoring VHF–FM Channel 16. This individual shall perform frequent checks of the vessel’s position to ensure the vessel is not dragging anchor.

(e) *Safety/Security Zone requirements.*

(1) Only the specified vessel may occupy the temporary restricted anchorage area. In accordance with the general regulations in § 165.23 and § 165.33 of this part, no person or vessel may anchor, moor, or transit the Regulated Area without permission of the Captain of the Port Jacksonville, Florida, or a designated representative.

(2) The Coast Guard will issue a broadcast notice to mariners to advise mariners of the temporary restricted anchorage activation.

(f) *Captain of the Port Contact Information.* If you have questions about the conditions under which the COTP may direct a vessel to temporary restricted anchorage, location of the temporary restricted anchorage areas, the requirements once a vessel is directed to temporary restricted anchorage, or other matters dealing with

this regulation, please contact the Sector Jacksonville Command Center at (904) 564–7513.

Dated: February 12, 2008.

W.D. Lee,

Captain, U.S. Coast Guard, Commander, Coast Guard Seventh District (Acting).

[FR Doc. E8–4757 Filed 3–10–08; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–504; MB Docket No. 08–30; RM–11419]

Television Broadcasting Services; Riverside, California

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a channel substitution proposed by KRCA License, LLC, requesting the post-transition digital television allotment for KRCA-DT, Riverside, California be changed from Channel 45 to Channel 35.

DATES: Comments must be filed on or before April 10, 2008, and reply comments on or before April 25, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the petitioner as follows: Marnie K. Sarver, Esq., Wiley Rein, LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shaun A. Maher, Media Bureau (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Notice of Proposed Rule Making, MB Docket No. 08–30, adopted March 5, 2008, and released March 5, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC’s Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC. 20554. This document may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via e-mail <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the

Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.622(i), the DTV Table of Allotments under California, is amended by substituting channel 35 for channel 45.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8–4909 Filed 3–10–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R6–2008–0029; 1111 FY07 MO–B2]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the North American Wolverine as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act), the population of the North American wolverine (*Gulo gulo luscus*) that occurs in the contiguous United States. After a review of the best available scientific and commercial information, we have determined that the population of North American wolverine occurring in the contiguous United States does not constitute a listable entity under the Act. Therefore, we find that the petition to list the North American wolverine (*Gulo gulo luscus*) that occurs in the contiguous United States is not warranted for listing. The Service will continue to seek new information on the taxonomy, biology, ecology, and status of the North American wolverine and we will continue to support cooperative conservation of wolverines in the contiguous United States.

DATES: This finding was made on March 11, 2008.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov>. Supporting documentation we used to prepare this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Montana Field Office, 585 Shepard Way, Helena, MT 59601; telephone (406) 449–5225. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Mark Wilson, Field Supervisor, U.S. Fish and Wildlife Service, Montana Field Office (see **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 et seq.) requires that, for any petition containing substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but that immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are threatened or endangered, and

expeditious progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

We received a petition dated August 3, 1994, from the Predator Project (now named the Predator Conservation Alliance) and Biodiversity Legal Foundation to list the North American wolverine in the contiguous United States as a threatened or endangered species under the Act and to designate critical habitat concurrent with listing. On April 19, 1995, we published a finding (60 FR 19567) that the petition did not provide substantial scientific or commercial information indicating that listing the North American wolverine in the contiguous United States may be warranted. We did not make a determination as to whether the contiguous United States population of the North American wolverine constituted a distinct population segment or other listable entity.

On July 14, 2000, we received another petition dated July 11, 2000, submitted by the Biodiversity Legal Foundation, Predator Conservation Alliance, Defenders of Wildlife, Northwest Ecosystem Alliance, Friends of the Clearwater, and Superior Wilderness Action Network, to list the North American wolverine within the contiguous United States as a threatened or endangered species under the Act and to designate critical habitat for the species concurrent with the listing.

On October 21, 2003, we published a 90-day finding that the petition to list the North American wolverine in the contiguous United States did not present substantial scientific and commercial information indicating that listing as threatened or endangered may be warranted (68 FR 60112). We did not determine whether the contiguous United States population of the North American wolverine constituted a distinct population segment (or other listable entity), because sufficient information was not available at the time.

On September 29, 2006, as a result of a complaint filed by Defenders of Wildlife and others alleging we used the wrong standards to assess the wolverine petition, the U.S. District Court, Montana District, ruled that our 90-day

petition finding was in error and ordered us to make a 12-month finding for the wolverine (*Defenders of Wildlife et al. v. Norton and Hogan* (9:05cv99 DWM; D. MT)). On April 6, 2007, the Court approved an unopposed motion to extend the deadline for this 12-month finding to February 28, 2008, so that we would be able to use information published in the September 2007 edition of the *Journal of Wildlife Management* containing a special section on North American wolverine biology. On June 5, 2007, we published a notice initiating a status review for the wolverine (72 FR 31048).

Species Biology

The currently accepted taxonomy classifies wolverines worldwide as a single species, *Gulo gulo*. The wolverine has a holarctic distribution. Old and New World wolverines are divided into separate Old World and New World subspecies. Wolverines of Eurasia (Old World) comprise the subspecies *G. g. gulo*. Wolverines in the contiguous United States are a part of the New World or North American (United States and Canada) subspecies, *G. g. luscus* (Kurten and Rausch 1959, p. 19; Pasitschniak-Arts and Lariviere 1995, p. 1). The two subspecies differ in minor aspects of skull morphology (Kurten and Rausch 1959, p. 19), but significant differences in ecology, behavior, demography, or natural history do not appear to exist. Most authors, when discussing these aspects of wolverine biology, refer to New and Old World wolverines interchangeably (e.g., Pasitschniak-Arts and Lariviere 1995, entire). We consider the Old and New World subspecies to be similar and reliable enough to refer to information on Old World wolverines (*G. g. gulo*) as a surrogate for the North American wolverine in this finding when such information is not available specifically for the North American subspecies.

The wolverine is the largest terrestrial member of the family *Mustelidae*. Adult males weigh 12 to 18 kilograms (kg) (26 to 40 pounds (lb)), and adult females weigh 8 to 12 kg (17 to 26 lb) (Banci 1994, p. 99). The wolverine resembles a small bear with a bushy tail. It has a broad, rounded head; short, rounded ears; and small eyes. Each foot has five toes with curved, semi-retractile claws used for digging and climbing (Banci 1994, p. 99).

Wolverines are opportunistic feeders and consume a variety of foods depending on availability. They primarily scavenge carrion, but also prey on small animals and birds, and eat fruits, berries, and insects (Hornocker and Hash 1981, p. 1290; Hash 1987, p.

579; Banci 1994, pp. 111–113). Wolverines have an excellent sense of smell that enables them to find food beneath deep snow (Hornocker and Hash 1981, p. 1297). Wolverines consume large ungulate carrion when available. The most important food items in wolverine diets are large ungulate species, followed by small animals such as beaver, marmots, ground squirrels, rabbits, hares, porcupine, voles, ground nesting birds, and insects (Banci 1994, p. 112; Pasitschniak-Arts and Lariviere 1995, pp. 498–499). The large ungulates in wolverine diets are assumed to be the result of scavenging, although wolverines are able to occasionally kill large ungulates in deep snow conditions when ungulate mobility is impaired (Pasitschniak-Arts and Lariviere 1995, pp. 498–499). Large ungulates comprise a larger proportion of the diet in winter than in snow-free seasons (Banci 1994, Table 5). The availability of large ungulate herds is of paramount importance for wolverines and the availability of large mammals underlies the wolverine's distribution, survival, and reproductive success (Banci 1994, p. 111).

Wolverines have delayed onset of reproduction in females and small litter sizes. Studies of wolverine carcasses from trapper harvest have provided some useful data on reproductive parameters (Rausch and Pearson 1972, pp. 253–267; Liskop et al. 1981, pp. 472–476; Banci and Harestad 1988, pp. 266–268). These carcass studies indicate that a large number of female wolverines (40 percent) are apparently capable of giving birth at 2 years old, become pregnant most years, and produce average litter sizes of approximately 3.4 kits. However, carcass studies are subject to overestimating frequency of reproduction and the number of kits per litter, and underestimating the age at first reproduction because embryos are often resorbed by females that are energetically unable to complete pregnancy (Persson et al. 2006, p. 75; Inman et al. 2007c, p. 70). These aborted pregnancies result in corpora lutea (uterine scarring) in the female reproductive tract, leading to the erroneous conclusion that a female had reproduced at an early age and that litter sizes are relatively large.

Field studies using radio telemetry are better able to determine the actual age at first reproduction and the actual number of kits successfully raised to weaning. Based on these studies, average age at first reproduction is likely more than 3 years (Inman et al. 2007c, p. 70). Pregnant females commonly

resorb or spontaneously abort litters when food availability is so low as to prevent successful completion of pregnancy or lactation to the time of weaning (Magoun 1985, pp. 30–31; Copeland 1996, p. 43; Persson et al. 2006, p. 77; Inman et al. 2007c, p. 70). Supplemental feeding of females increases reproductive potential (Persson 2005, p. 1456) and success at raising kits to the time of weaning, and indicates that food availability is likely to be a limiting factor for wolverine populations. In one study of known-aged females, none reproduced at age 2; 3 of 10 first reproduced at age 3; and 2 did not reproduce until age 4. The average age at first reproduction for this study was 3.4 years (rather than 2 years for the carcass studies above) (Persson et al. 2006, pp. 76–77). From these studies, we conclude that, by age three, nearly all female wolverines become pregnant every year, but energetic constraints resulting from low food availability result in loss of pregnancy about every other year. It is likely that, in many places in the range of wolverines in the lower 48 States, it takes 2 years of foraging for a female to store enough energy to successfully reproduce (Persson 2005, p. 1456; Inman et al. 2007c, Table 3).

Breeding generally occurs from late spring to early fall (Magoun and Valkenburg 1983, p. 175; Mead et al. 1991, pp. 808–811). Females undergo delayed implantation until the following winter to spring, when active gestation lasts from 30 to 40 days (Rausch and Pearson 1972, pp. 254–257). Litters are born between February and April and contain 1 to 5 kits, with an average in North America of between 1 and 2 kits (rather than 3.4 kits, as indicated by carcass studies) (Magoun 1985, pp. 28–31; Copeland 1996, p. 36; Krebs and Lewis 1999, p. 698; Copeland and Yates 2006, pp. 32–36; Inman et al. 2007c, p. 68).

Several aspects related to reproductive denning are significant to wolverine reproductive success (Banci 1994, p. 110; Magoun and Copeland 1998, p. 1319; Inman et al. 2007c, p. 71). Female wolverines use two kinds of dens for reproduction. Females use natal (birthing) dens to give birth and raise kits early postpartum, and in some cases females may raise kits to weaning in the natal den. However, in most situations prior to weaning, females may move kits to one or multiple alternative den sites, which are referred to as maternal dens. The female then raises her kits to weaning in the maternal den. The movement of kits from natal to maternal dens may be a response by the female to den disturbance, better food

availability in the new location, predation risk, or deteriorating den conditions in the natal den (Magoun and Copeland 1998, pp. 1316–1319).

Female wolverines use natal dens that are excavated in snow. Persistent, stable snow greater than 1.5 meters (m) (5 feet (ft)) deep appears to be a requirement for natal denning, presumably because it provides security for offspring and buffers cold winter temperatures (Pulliainen 1968, p. 342; Copeland 1996, pp. 92–97; Magoun and Copeland 1998, pp. 1317–1318; Banci 1994, pp. 109–110; Inman et al. 2007c, pp. 71–72). Female wolverines go to great lengths to find secure den sites, suggesting that predation is a concern (Banci 1994, p. 107). Natal dens consist of tunnels that contain well-used runways and bed sites, and that may naturally incorporate shrubs, rocks, and downed logs as part of their structure (Magoun and Copeland 1998, pp. 1315–1316; Inman et al. 2007c, pp. 71–72). In Idaho, natal den sites occur above 2,500 m (8,200 ft) on rocky sites, such as north-facing boulder talus or subalpine cirques in forest openings (Magoun and Copeland 1994, pp. 1315–1316). In Montana, natal dens occur above 2,400 m (7,874 ft) and are located on north aspects in avalanche debris, typically in alpine habitats near timberline (Inman et al. 2007c, pp. 71–72).

Dens (natal and maternal) are typically used from early February through late April or early May (Myrberget 1968, p. 115; Magoun and Copeland 1998, pp. 1314–1317; Inman et al. 2007b, pp. 55–59). Occupation of natal dens is variable, ranging from approximately 9 to 65 days depending on whether or not the female wolverine perceives the need to move her kits (Magoun and Copeland 1998, pp. 1316–1317). Females may use multiple secondary (maternal) dens (Pulliainen 1968, p. 343; Myrberget 1968, p. 115), or use of maternal dens may be minimal (Inman et al. 2007c, p. 69). Timing of den abandonment is related to accumulation of water in dens (snow melt), the maturation of offspring, disturbance, and geographic location (Myrberget 1968, p. 115; Magoun 1985, p. 73). Post-weaning dens are called rendezvous sites. These dens may be used through early July. Females leave their kits at rendezvous sites while foraging, and return periodically to provide food for the kits. These sites are characterized by natural (unexcavated) cavities formed by large boulders, downed logs (avalanche debris), and snow (Inman et al. 2007c, pp. 55–56).

Habitat and Home Range

In North America, wolverines occur within a wide variety of arctic, sub-arctic and alpine habitats, primarily boreal forests, tundra, and western mountains throughout Alaska and Canada; however, the southern portion of their range extends into the contiguous United States, including Washington, Idaho, Montana, and Wyoming (Wilson 1982, p. 644; Hash 1987, p. 576; Banci 1994, p. 102, Pasitschniak-Arts and Lariviere 1995, p. 499; Aubry et al. 2007, p. 2152). In the contiguous United States, wolverines are restricted to high-elevation habitats in the Rocky Mountains and North Cascades containing the arctic and sub-arctic conditions they require.

Home ranges of wolverines are large, but vary greatly depending on availability of food, gender, age, and differences in habitat. The availability and distribution of food is likely the primary factor in determining wolverine movements and home range size (Hornocker and Hash 1981, p. 1298; Banci 1994, pp. 117–118). Wolverines travel long distances over rough terrain and deep snow, and adult males generally cover greater distances than females (Hornocker and Hash 1981, p. 1298; Banci 1994, pp. 117–118). Home ranges of adult wolverines are approximately 100 square kilometers (km²) to over 900 km² (38.5 square miles (mi²) to 348 mi²) (Banci 1994, p. 117). Average home ranges of resident adult females in central Idaho are 384 km² (148 mi²), and average home ranges of resident adult males are 1,522 km² (588 mi²) (Copeland 1996, p. 50). Wolverines in Glacier National Park have average male home ranges of 496 km² (193 mi²) and female home ranges of 141 km² (55 mi²) (Copeland and Yates 2006, p. 25). Wolverines in the Greater Yellowstone Area have average adult male home ranges of 797 km² (311 mi²) and average adult female home ranges of 329 km² (128 mi²) (Inman et al. 2007a, p. 4). Home ranges for carnivores of similar body size are smaller than wolverine home ranges at their southern range terminus. Canada lynx in the United States Rocky Mountains average 122 km² (47 mi²) (Aubry et al. 2000, pp. 383–384), and coyote home ranges extend from 2.5 to 15 km² (1 to 5.8 mi²) (Chronert 2007, p. 2).

Wolverine home ranges at the southern terminus of the current range are large for mammals of the size of wolverines, and may indicate that wolverines have high energetic requirements and at the same time occupy relatively unproductive niches (Inman et al. 2007a, p. 11). In addition,

wolverines naturally occur in low densities that average about one wolverine per 150 km² (58 mi²) (Hornocker and Hash 1981, pp. 1292–1295; Hash 1987, p. 578; Copeland 1996, pp. 31–32; Copeland and Yates 2006, p. 27; Inman et al. 2007a, p. 10; Squires et al. 2007, p. 2218).

Wolverine Status in Canada and Alaska

The bulk of the range of North American wolverines is found in Canada and Alaska. Wolverines inhabit alpine tundra, boreal forest, and arctic habitats in western Canada and Alaska (Slough 2007, p. 78). Wolverines in Canada have been divided into two populations for management by the Canadian government: an eastern population in Labrador and Quebec; and a western population that extends from Ontario to the Pacific coast, and north to the Arctic Ocean. The eastern population is currently listed as endangered under the Species At Risk Act in Canada, and the western population is designated as a species of special concern (COSEWIC 2003, p. 8).

The current status of wolverines in eastern Canada is uncertain. Wolverines have not been confirmed to occur in Quebec since 1978 (Fortin et al. 2005, p. 4). Historical evidence of wolverine presence in eastern Canada is also suspect because no evidence exists to show that wolverine pelts attributed to Quebec or Labrador actually came from that region; possibly animals were trapped elsewhere and the pelts were shipped through the eastern provinces (COSEWIC 2003, p. 20). Wolverines in eastern Canada may currently exist in an extremely low-density population, or may be extirpated. Wolverines in eastern Canada, both historically and currently, could represent migrants from western populations that never became resident animals (COSEWIC 2003, pp. 20–21). The government of Canada has completed a recovery plan for the eastern population with the goal of establishing a self-sustaining population through reintroduction and protection (Fortin et al. 2005, p. 16).

Wolverines in western Canada and Alaska inhabit a variety of habitats from sea level to high elevations in mountains (Slough 2007, pp. 77–78). In Canada, they occur in Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, Northwest Territories, and Nunavut (Slough 2007, pp. 77–78). Since European colonization, a generally recognized range contraction has taken place in boreal Ontario and the aspen parklands of Manitoba, Saskatchewan, and Alberta (COSEWIC 2003, pp. 20–21; Slough 2007, p. 77). This range contraction

occurred concurrently with a reduction in wolverine records for the Great Lakes region in the lower 48 States (Aubry et al. 2007, pp. 2155–2156). Causes of these changes are uncertain, but may be related to increased harvest, habitat modification, or climate change (COSEWIC 2003, pp. 20–21; Aubry et al. 2007, pp. 2155–2156; Slough 2007, pp. 77–78). Analysis supports climate change as a contributing factor to declines in wolverine populations in southern Ontario, because snow conditions necessary to support wolverines do not currently exist in the Great Lakes region of the lower 48 States, and are marginal in southern Ontario (Aubry et al. 2007, p. 2154). Wolverines occurred historically on Vancouver Island and have been given status as a separate subspecies by some (Hall 1981, p. 109). The Vancouver Island population is now regarded as possibly extirpated; no sightings have occurred since 1992 (COSEWIC 2003, p. 18).

Wolverines in western Canada and Alaska appear to persist where habitat and climate conditions are favorable (COSEWIC 2003, pp. 13–21; Aubry et al. 2007, pp. 2152–2155; Slough 2007, p. 79). Throughout this area, wolverines are managed by regulated harvest at the Province and State level. Population estimates for Canada and Alaska are approximate because no wolverine surveys have taken place at the State or national scale. However, the population in western Canada includes an estimated 15,089 to 18,967 individuals, based on population densities and occupied area (COSEWIC 2003, p. 22). The number of wolverines in Alaska is unknown, but they appear to exist at naturally low densities in suitable habitats throughout Alaska (Alaska Department of Fish and Game 2004, pp. 1–359). We have no information to indicate that wolverine populations

have been reduced in numbers or geographic range in Alaska.

Wolverine Status in the Contiguous United States

The delineation of the historical and present distribution of wolverine is inherently difficult for several reasons. Wolverines tend to live in remote and inhospitable places away from human populations. Wolverines naturally occur at low densities and are rarely and unpredictably encountered where they do occur. Wolverines often move long distances in short periods of time when dispersing from natal ranges (Aubry et al. 2007, p. 2147), making it difficult to distinguish with confidence between occurrence records that represent established populations and those that represent short-term occupancy without the potential for establishment of home ranges and reproduction. These natural attributes of wolverines make it difficult to determine their present range, or trends in range expansion or contraction that may have occurred in the past. Therefore, we must be cautious when trying to determine where past wolverine populations occurred, and where application of conservation actions may be possible in the future.

Aubry et al. (2007, entire) represents the best available science on the wolverine's geographic range in the contiguous United States. This study (2007, pp. 2147–2148) used verifiable and documented records from museum collections, literature sources, and State and Federal institutions to trace changes in geographic distribution of wolverines in the historic record. Aubry et al.'s (2007) focus on verifiable and documented records corrected past overly broad approaches to wolverine range mapping (Nowak 1973, p. 22; Hall 1981, p. 1009; Wilson 1982, p. 644; Hash 1987, p. 576) that used a more inclusive but potentially misleading

approach when dealing with extralimital records (i.e., records from outside of established, reproducing populations). Aubry et al. (2007, p. 2155) concluded that these records represent individuals dispersing from natal ranges that often end up in habitats that cannot support wolverines, and their use in determining the potential range of wolverine can overestimate the area that can actually be used by wolverines for home ranges and breeding.

Aubry et al. (2007, pp. 2147–2148) divided records into “historical” (recorded prior to 1961), “recent” (recorded between 1961 and 1994), and “current” (recorded after 1994). Historical records occurred before systematic surveys and encompass the time during which wolverine numbers and distribution were hypothesized to be at their lowest, in the first half of the 1900s (Wright and Thompson 1935; Grinnell et al. 1937; Allen 1942; Newby and Wright 1955, all as cited in Aubry et al. 2007, p. 2148). The recent time interval covers a hypothesized population expansion and rebound from an earlier low (Aubry et al. 2007, pp. 2148–2149). Current records are considered by Aubry et al. (2007, p. 2148) to be a reliable depiction of where populations occur now.

Wolverine Distribution in the Contiguous United States

Using data from Aubrey et al. 2007, we assessed the historical, recent, and current distribution data for each of six geographical regions to determine the likelihood of the presence of historical populations (rather than extralimital dispersers). Table 1 illustrates wolverine numbers in the six geographic areas assessed by Aubry et al. (2007, Table 1). More detail on wolverine distribution over time is included in the text that follows.

TABLE 1.—VERIFIABLE AND DOCUMENTED RECORDS OF WOLVERINE OCCURRENCE IN THE CONTIGUOUS UNITED STATES BY REGION AND STATE
[Reproduced from Aubrey et al. 2007, p. 2151]

Region and State	Historical records							Recent records				Current records 1995–2005	Most recent verifiable record	
	1800s	1901–1910	1911–1920	1921–1930	1931–1940	1941–1950	1951–1960	1961–1970	1971–1980	1981–1994				
Pacific Coast Mountains:														
Washington	17	3	7	0	0		1	10	3	4	7	2003		
Oregon	0	0	1	1	0		0	2	2	2	0	1992		
California	11	7	9	30	0		1	0	0	0	0	1922		
Rocky Mountains:														
Idaho	6	5	5	2	0		3	5	5	^a 31	^b 16	2005		
Montana	6	1	1	0	4		9	14	^c 121	^d 149	^e 187	2005		
Wyoming	10	6	1	1	0		0	1	0	0	^f 12	2005		
Utah	8	0	1	1	0		0	0	0	0	0	1921		
Nevada	0	0	0	0	0		0	0	0	0	0	1972		
Colorado	22	7	5	0	0		0	0	0	0	0	1919		
New Mexico	1	0	0	0	0		0	0	0	0	0	1860		
Central Great Plains:														
North Dakota	35	0	1	0	0		0	0	0	0	0	None		
South Dakota	0	0	0	0	0		0	1	0	0	0	1962		
Nebraska	1	0	0	0	0		0	0	0	0	0	1887		
Great Lakes:														
Minnesota	6	0	1	2	1		0	1	0	0	0	1899		
Wisconsin	12	1	0	1	0		0	0	0	0	0	^g 1800s		
Michigan	11	0	0	1	0		0	0	0	0	0	1868		
Upper Midwest:														
Iowa	0	0	0	0	0		0	0	0	0	0	1960		
Indiana	2	0	0	0	0		0	0	0	0	0	None		
Ohio	0	0	0	0	0		1	0	0	0	0	1943		
Northeast:														
Pennsylvania	4	0	0	0	0		0	0	0	0	0	None		
New York	3	0	0	0	0		0	0	0	0	0	1811		
New Hampshire	0	0	2	0	0		0	0	0	0	0	None		
Vermont	3	0	0	0	0		0	0	0	0	0	None		
Maine	1	0	0	0	0		0	0	0	0	0	None		

^a Includes 16 initial capture locations obtained from 1992 to 1994 during a radiotelemetry study.

^b Includes 3 initial capture locations obtained in 1995 during a radiotelemetry study and 4 initial capture locations obtained from 2003 to 2005 during a radiotelemetry study.

^c Includes 94 harvest records from 1974 to 1980 compiled by the MT Department of Fish, Wildlife, and Parks and 24 wolverines that were radiocollared by Hornocker and Hash (1981) in northwestern MT from 1972 to 1977.

^d Includes 146 harvest records from 1981 to 1994 compiled by the MT Department of Fish, Wildlife, and Parks.

^e Includes 115 harvest records from 1995 to 2004 compiled by the MT Department of Fish, Wildlife, and Parks and 49 initial capture locations obtained from 2002 to 2005 during radiotelemetry studies.

^f Includes 9 initial capture locations obtained from 1998 to 2005 during telemetry studies.

^g Jackson (1954) found 2 wolverine specimens in a cave in southwestern WI in 1920 that he estimated had been in the deposit for > 50 years.

Northeast and Upper Midwest. The low number of records and the scattered nature of their distribution suggest that wolverines were likely to have been occasional transients to the area and not present as a reproducing population after 1800.

Great Lakes. The low number of verifiable records in this area of relatively high human population density (compared with, for example, the Rocky Mountains) suggests that wolverines did not exist in this area as a viable population after 1900. Widely scattered records generally before 1900, with an occasional record after that year, suggest that if a reproducing population existed in the Great Lakes, it predated 1900, and that post-1900 records represent dispersal from a receding Canadian population. Wolverine distribution in Ontario, Canada appears to have receded north from the Great Lakes region beginning in the 1800s, and currently wolverines occupy only the northern portion of the province, a distance of over 650 km (404 mi) from the U.S. border (COSEWIC 2003, p. 9). The pattern of declining numbers of records for the Great Lakes region illustrated in Aubry et al. (2007, p. 2152) is consistent with what would be expected if those records were of dispersing individuals from a Canadian population that receded progressively farther north into Canada after 1900.

Central Great Plains. The lack of verifiable and mappable records from the Great Plains States leaves little evidence on which to determine if reproducing populations of wolverines ever inhabited this area. Thirty-five of 36 records from North Dakota are from the journals of a single fur trader, and it is not clear that the records represent actual collection localities or localities where trades or shipments occurred (Aubry et al. 2007, entire). The habitat relationships of wolverines include the Hudsonian life zone, subarctic, and tundra with persistent spring snow, all features that the Central Great Plains lack and lacked throughout the historic period (Aubry et al. 2007, pp. 2151–2152). Therefore, it is unlikely that these records represent established wolverine individuals or populations, or that this area contained wolverine habitat.

Rocky Mountains. Five Rocky Mountains States (Idaho, Montana, Wyoming, Colorado, and Utah) as a region contain numerous wolverine records over all time intervals. Mappable records appear to coalesce around several areas that may have been population centers, such as central Colorado, the Greater Yellowstone Area, and northern Idaho/northwestern Montana. The large number of verifiable

and mappable records for this region, along with the suggestion of population centers or strongholds, suggests that wolverines existed in reproducing populations throughout much of the Rocky Mountains during the historical interval. During the recent interval, the lack of records for Colorado and Utah suggest that the southern Rocky Mountain population of wolverines was extirpated by the middle 1900s, concurrent with widespread systematic predator control by government agencies and livestock interests. The northern Rocky Mountain population (north of Wyoming) was reduced to historic lows during the early 1900s, and then increased dramatically in the second half of the 1900s as predator control efforts subsided and trapping regulations became more restrictive (Aubry et al. 2007, p. 2151). This increase may indicate that the population rebounded from historic lows in this period, but we cannot rule out that the apparent rebound is an artifact of improved monitoring of wolverine trapping by government agencies. Wolverine records from 1995 to 2005 show that wolverine populations currently exist in the northern Rocky Mountains. Ongoing legal trapping in Montana removes an average of 10.5 individuals from this population each year (Montana Department of Fish, Wildlife, and Parks 2007, p. 2). During all time periods, populations of wolverines in British Columbia and Alberta may have been a source of surplus wolverines during population lows (COSEWIC 2003, pp. 18–19).

Pacific Coast. Historically, records from Washington, Oregon, and California clearly coalesced around two population centers in the North Cascades and the Sierra Nevada. Records from these areas are separated by a lack of historic records in southern Oregon and northern California, indicating that the distribution of wolverines in this area is best represented by two disjunct populations rather than a continuous peninsular extension from Canada. This conclusion is supported by genetic data indicating that the Sierra Nevada and North Cascades wolverines were separated for at least 2,000 years prior to extirpation of the Sierra Nevada population (Schwartz et al. 2007, p. 2174). One Sierra Nevada record exists from after 1930, indicating that this population was extirpated in the first half of the 1900s concurrent with widespread systematic predator control programs. Records from the North Cascades continue into present times in relatively

small numbers, indicating a population persists in this area. Records from British Columbia, Canada indicate that the North Cascades population may be connected with, and possibly dependent on, the larger Canadian population for viability over the long term.

Summary of Wolverine Distribution Patterns in the Contiguous United States

Historical wolverine records were found across the northern tier of the lower 48 States with peninsular extensions south into the southern Rockies and the Sierra Nevada (Aubry et al. 2007, p. 2152).

Currently, wolverines appear to be distributed in two regions in the lower 48 States: the North Cascades in Washington (and possibly Oregon), and the northern Rocky Mountains in Idaho, Montana, and Wyoming. Wolverine records were extirpated in historical times from the Sierra Nevada and the southern Rocky Mountains. We conclude that the current range of the species in the contiguous United States includes the North Cascades Mountains and the northern Rocky Mountains.

We also conclude that wolverines likely either did not exist as established populations or were extirpated prior to settlement and the compilation of historical records in the Great Lakes region. The widely scattered records from this region are consistent with dispersing individuals from a Canadian population that receded north early in the 1800s. We cannot rule out the possibility that wolverines existed as established populations prior to the onset of trapping in this area, but we have no evidence that they did.

No evidence in the historical records suggests that wolverines were ever present as established populations in the Great Plains, Midwest, or Northeast.

Habitat Relationships and Wolverine Distribution in the Contiguous United States

Aubry et al. (2007, pp. 2152–2156) compared several broad-scale habitat types to historic, recent, and current wolverine records to investigate correlations in habitat use and determine what habitat types might best predict wolverine occurrence. Spring snow cover (April 15 to May 14) is the best overall predictor of wolverine occurrence. Snow cover during the denning period is essential for successful wolverine reproduction rangewide (Hatler 1989, p. iv; Magoun and Copeland 1998, p. 1317; Inman et al. 2007c, pp. 71–72; Persson 2007, p. 1). Wolverine dens tend to be in areas of high structural diversity such as logs

and boulders with deep snow (Magoun and Copeland 1998, p. 1317; Inman et al. 2007c, pp. 71–72; Persson 2007, entire). Reproductive females dig deep snow tunnels to reach the protective structure of logs and boulders where they produce offspring. This behavior presumably protects the vulnerable kits from predation by large carnivores, including other wolverines (Pulliainen 1968, p. 342; Zyryanov 1989, pp. 3–12), but may also have physiological benefits for kits by buffering them from extreme cold, wind, and desiccation (Pulliainen 1968, p. 342; Bjärvall et al. 1978, p. 23).

All of the areas in the lower 48 States for which good evidence of persistent wolverine populations exists (i.e., Cascades, Sierra Nevada, northern and southern Rockies) contain large and well-distributed areas with deep snow cover that persists through the wolverine denning period (Brock et al. 2007, pp. 36–53; Aubry et al. 2007, p. 2154). The Great Plains, Great Lakes, Midwest, and Northeast lack the spring snow conditions thought to be required by wolverines for successful reproduction (Aubry et al. 2007, p. 2154). This finding supports the exclusion of the Great Plains, Great Lakes, Midwest, and Northeast from the current range of wolverines. Whether wolverines once existed as established populations in any of these regions is unknown, but the consistent lack of deep spring snow in these regions appears to currently preclude the wolverine's presence as a reproducing population.

Large areas of habitat with characteristics suitable for wolverines still occur in the southern Rocky Mountains and Sierra Nevada where wolverines have been extirpated (Aubry et al. 2007, p. 2154; Brock et al. 2007, p. 26). The occurrence data suggest that wolverine extirpations in these areas were coincidental with systematic predator eradication efforts in the early 1900s, which have been discontinued for many years. Wolverines failed to recolonize these areas since the cessation of eradication programs, by the mid-20th century, of widespread predator control efforts. This may be the result of the long dispersal distance between these areas and extant populations.

We conclude that areas of wolverine historical occurrence can be placed in one of three categories: (1) Areas where wolverines are extant as reproducing and potentially self-sustaining populations (North Cascades, northern Rocky Mountains); (2) areas where wolverines historically existed as reproducing and potentially self-sustaining populations prior to human-

induced extirpation, and where reestablishment of populations is possible given current habitat conditions and management (the Sierra Nevada mountains in California and southern Rocky Mountains in Colorado); and (3) areas where historical presence of wolverines in reproducing and potentially self-sustaining populations is doubtful, and where the current habitat conditions preclude the establishment of populations in the foreseeable future (Great Plains, Midwest, Great Lakes, and Northeast). Further, on the basis of the historic and current records and distribution of suitable habitat, we consider the current range of wolverines to include suitable habitat in the North Cascades of Washington and Oregon, and northern Rocky Mountains of Idaho, Wyoming, and Montana.

Wolverine Population Estimate for the Contiguous United States

Current population level and trends remain unknown because no systematic population census exists over the entire current range of the wolverine in the lower 48 States. However, we can estimate the potential carrying capacity of a population in a given region by using available data on population density, extent of habitat, and wolverine distribution. Using the projections of wolverine habitat found in Brock et al. (2007, pp. 36–53), Montana, Idaho, and Wyoming could potentially support between 499 and 655 individual wolverines (Inman 2007a, entire). This range is almost certainly an overestimate of actual wolverine numbers because it assumes that all suitable habitat is currently occupied, which is not the case (Murphy et al. 2007, p. 2). Therefore, we consider the lower range estimate of about 500 wolverines from Inman (2007a, entire) to be a reasonable estimate of the current wolverine population in the northern Rocky Mountains. The three northern Rocky Mountain States provide the bulk of currently occupied habitat in the contiguous United States, with the only additional known occupied area being the North Cascades mountain range in Washington State. The size of the North Cascades population is unknown, but is likely to be much smaller than the northern Rocky Mountain population due to the small size of the occupied area (Aubry et al. 2007, Fig. 4) and is unlikely to increase the estimated population significantly.

Distinct Vertebrate Population Segment (DPS)

Under section 4(a)(1) of the Act, we must determine whether any species is an endangered species or a threatened species because of any of the five threat factors identified in the Act. Section 3(16) of the Act defines "species" to include "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" (16 U.S.C. 1532 (16)). To interpret and implement the distinct population segment portion of the definition of a species under the Act and Congressional guidance, the Service and the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration-Fisheries) published, on February 7, 1996, an interagency Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Act (DPS Policy; 61 FR 4722). The policy allows for more refined application of the Act that better reflects the conservation needs of the taxon being considered, and avoids the inclusion of entities that may not warrant protection under the Act.

Under our DPS Policy, three elements are considered in a decision regarding the status of a possible DPS as endangered or threatened under the Act. These are applied similarly for additions to the Lists of Endangered and Threatened Wildlife and Plants, reclassification, and removal from the Lists. They are: (1) Discreteness of the population segment in relation to the remainder of the taxon; (2) the significance of the population segment to the taxon to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., whether the population segment is, when treated as if it were a species, endangered or threatened). Discreteness refers to the isolation of a population from other members of the species, and we evaluate this based on specific criteria. If a population segment is considered discrete, we must consider whether the discrete segment is "significant" to the taxon to which it belongs by using the best available scientific information. If we determine that a population segment is discrete and significant, we then evaluate it for endangered or threatened status based on the Act's standards. The DPS evaluation in this finding concerns the segment of the wolverine species occurring within the contiguous United States, including the northern Rocky Mountains and the North Cascades.

Analysis for Discreteness

Under our DPS Policy, a population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act (see “International Border Issues” section below for a discussion of the standard set by section 4(a)(1)(D)). Below is our discussion of the wolverine population within the contiguous 48 United States relative to the discreteness criterion of the DPS policy.

Markedly Separated From Other Populations of the Taxon

The population of the North American wolverine addressed in the petition, and that we have evaluated for consideration as a DPS, incorporates wolverine populations south of the international border with Canada, inclusive of the States of Idaho, Montana, Washington, and Wyoming (hereafter referred to as the U.S. population). The U.S. population is connected to wolverine populations in Canada and is likely dependent on them to some degree for maintaining genetic diversity. Therefore, the U.S. population of the North American wolverine does not meet the markedly separated criterion of the DPS Policy.

International Border Issues

A population segment of a vertebrate species may also be considered discrete if it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. Section 4(a)(1)(D) of the Act is the factor concerning the adequacy of existing regulatory mechanisms in the Act’s “5-factor” analysis for determining whether a species is threatened or endangered. In assessing a population for discreteness based on delimitation by international governmental boundaries, we focus specifically on whether the factors named above are significantly different between the two countries because of

the inadequacy of existing regulatory mechanisms. In order to demonstrate that a population is discrete based on international governmental boundaries, it is not enough that there are differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms across the international boundary; the differences must be significant and relate to inadequate regulatory mechanisms. Following is our assessment of the U.S. population and wolverines in the rest of North America in terms of differences in control of exploitation, management of habitat, conservation status, and regulatory mechanisms.

Differences in Management of Habitat

Wolverine habitat in North America occurs in arctic, sub-arctic, and alpine habitats, and typically in areas remote from human presence and development. In the contiguous United States, wolverines are restricted to high-elevation habitats in the Rocky Mountains and North Cascades containing the arctic and sub-arctic conditions that they require (Wilson 1982, p. 644; Hash 1987, p. 576; Banci 1994, p. 102; Pasitschniak-Arts and Lariviere 1995, p. 499; Aubry et al. 2007, p. 2152). Wolverine habitat is generally characterized by the absence of human presence and development (Hornocker and Hash 1981, p. 1299; Banci 1994, p. 114; Landa et al. 1998, p. 448; Rowland et al. 2003 p. 101; Copeland 1996, pp. 124–127; Krebs et al. 2007, pp. 2187–2190). In both the contiguous United States and Canada, little habitat management occurs in areas frequented by wolverines. Therefore, we find that there are no significant differences in management of habitat for wolverines that relate to the status of the species between the contiguous United States and Canada.

Differences in Conservation Status

Biological Status

Throughout its current range in Canada and Alaska, wolverines exist in well-distributed, interconnected, large populations. Conversely, wolverines in the contiguous United States appear to exist in small, fragmented, and semi-isolated populations that put them at greater risk of being lost due to catastrophic or stochastic events than those populations to the north in Canada and Alaska. These risks result from three main factors: (1) Small total population size, (2) effective population size below that needed to maintain genetic diversity and demographic stability, and (3) the fragmented nature

of wolverine habitat in the contiguous United States that results in smaller, isolated, “sky island” patches separated by unsuitable habitats. These three factors are explained in more detail below; in addition, we summarize how they relate to section 4(a)(1)(D) of the Act.

Small Total Population Size

The total population sizes for wolverines in Canada and Alaska, and the contiguous United States, differ by more than an order of magnitude. As explained in the “Wolverine Population Estimate for the Contiguous United States” section above, the contiguous U.S. population likely numbers approximately 500 adult individuals (Inman 2007a, entire). This total population is divided into smaller sub-populations inhabiting semi-isolated habitat fragments in major mountain ranges (Aubry et al. 2007, Figs. 2b, 4). The population in western Canada is much larger—estimated at 15,089 to 18,967 individuals (COSEWIC 2003, p. 22). Wolverine population size in Alaska is unknown; however, the average annual harvest consistently exceeds 500 individuals, and the population does not appear to be in decline based on trapper reports and the assessments of State wildlife managers (ADF&G 2004, entire). If the population is truly not declining, it is likely to number over 8,000 individuals, calculated using demographic data in Lofroth and Ott (2007, pp. 2196–2198), and assuming sustainable annual harvest of 6 percent (if 500 represents 6 percent of the population, total population equals 8,333). Wolverine populations number 2,089 to 3,567 in British Columbia and 1,500 to 2,000 in Alberta (COSEWIC 2003, p. 22), the two provinces immediately adjacent to the contiguous U.S. population. Small populations, such as the contiguous U.S. population, face higher extinction risk than large ones such as the Canada and Alaska population (Pimm et al. 1988, p. 762).

Effective Population Size

Population ecologists use the concept of a population’s “effective” size as a measure of the proportion of the actual population that contributes to future generations (for a review of effective population size, see Schwartz et al. 1998, entire). Effective population size may be less than actual population size if the population has any of the following characteristics: (1) Unequal sex ratio, (2) individuals have a disproportionate probability of contributing offspring to the next generation, (3) population size

fluctuates over time, and (4) generations overlap such that individuals may reproduce in more than one generation. Effective population size is important because it determines rates of loss of genetic variation, fixation of deleterious alleles, and the rate of inbreeding. Populations with small effective population sizes show reductions in population growth rates and increases in extinction probabilities (Leberg 1990, p. 194; Jimenez et al. 1994, pp. 272–273; Newman and Pilson 1997, p. 360; Saccheri et al. 1998, p. 492; Reed and Bryant 2000, p. 11; Schwartz and Mills 2005, p. 419; Hogg et al. 2006, pp. 1495, 1498; Allendorf and Luikart 2007, pp. 338–342). Franklin (1980, as cited in Allendorf and Luikart 2007, p. 359) proposed an empirically based rule suggesting that the short-term effective population size should not be less than 50, and the long-term effective population size should not be less than 500 (for appropriate use of this rule and its limitations, see Allendorf and Luikart 2007, pp. 359–360). There are two main ways to estimate the effective population size of populations: demographic and genetic. Demographically-based methods incorporate life history parameters, such as unequal sex ratios, fluctuations in population size over time, and variance in reproductive success, into abundance and demographic models of a species. Genetically-based methods use multi-locus genetic data to estimate an effective population size (Tallmon et al. 2004, p. 979; Waples 2006, pp. 171–178; Tallmon et al. 2007, entire).

Effective population for wolverines in the Rocky Mountains averaged 39 (Schwartz 2007, entire). This effective population size is exceptionally low (Schwartz 2007, entire), and is below what is required for short-term maintenance of genetic diversity.

The concern with the low effective population size is highlighted by recent research determining that at least 400 breeding pairs would be necessary to sustain the long-term genetic viability of the contiguous U.S. wolverine population (Cegelski et al. 2006, p. 197). However, the entire population is estimated to consist of only 500 individuals (Inman 2007a, entire), with a substantial number of them being nonbreeding subadults. Furthermore, the contiguous U.S. population appears to be split into at least five smaller subpopulations (North Cascades, Crazybelts, Idaho, Greater Yellowstone Area, and northern Montana) which are semi-isolated from each other, meaning that genetic exchange does not occur frequently enough to prevent genetic

drift and loss of genetic diversity (Cegelski et al. 2006, p. 206).

Genetic studies have highlighted the essential role that genetic exchange plays in maintaining genetic diversity in small wolverine populations. Genetic drift has occurred in the remaining populations in the contiguous United States where wolverines contain four of nine haplotypes found in Canadian populations (Kyle and Strobeck 2001, p. 343; Cegelski et al. 2003, pp. 2914–2915; Cegelski et al. 2006, p. 208; Schwartz et al. 2007, p. 2176). The reduced number of haplotypes indicates not only that genetic drift is occurring, but also that there is some level of genetic separation; if these populations were freely interbreeding, they would share more haplotypes (Cegelski et al. 2006, p. 205). The reduction of haplotypes is likely a result of the fragmented nature of wolverine habitat in the United States and is consistent with an emerging pattern of reduced genetic variation at the southern edge of the range documented in a suite of boreal forest carnivores (Schwartz et al. 2007, p. 2177). As stated previously, the low effective population size and accompanying reduction in genetic diversity is a concern because populations with low genetic diversity are more vulnerable to extinction.

No effective population size estimate exists for populations in Canada or Alaska. However, none of the Canadian or Alaskan populations tested show signs of genetic drift or inbreeding (Kyle and Strobeck 2001, p. 343; Cegelski et al. 2006, p. 209), and all Canadian and Alaskan populations contain higher genetic variation than the U.S. northern Rocky Mountain populations (Kyle and Strobeck 2001, p. 341). In addition, because of the large and contiguous nature of the populations (based on habitat contiguity and genetic similarity, see “Habitat Availability and Connectivity” below) (Kyle and Strobeck 2002, p. 1146; Cegelski et al. 2006, p. 209), and the relatively high genetic diversity in Canada and Alaska, we conclude that the effective population size is large enough to not be a cause for conservation concern. This information indicates that the populations in Alaska and Canada are less vulnerable to extinction pressures associated with a low effective population size.

The small effective population size in the contiguous U.S. wolverine population has led to inbreeding and consequent loss of genetic diversity (Cegelski et al. 2006, p. 208). Over time, if the current effective population size remains stable, the population will be at risk of extinction due to inbreeding

depression or stochastic demographic effects (Frankham 1995, p. 795). The small effective population size in the contiguous United States contrasts with the situation in Canada and Alaska where wolverines are relatively abundant and exist in habitats with a high level of connectivity (COSEWIC 2003, p. 8; Slough 2007, p. 78). Due to the lack of inbreeding reported for these populations, it is likely that effective population sizes are much larger than in the contiguous United States. Although these differences in biological conservation status between the United States and Canadian wolverine populations exist, they are not significant in light of section 4(a)(1)(D).

Habitat Availability and Connectivity

Wolverine habitat in the contiguous United States consists of small, isolated “islands” of high-elevation, alpine habitats containing sufficient depth of snow during the denning period, separated from each other by low valleys of unsuitable habitats (Copeland 2007, Map 1). The large distances between suitable wolverine habitats result in wolverines existing in an archipelago of semi-isolated, suitable habitats near mountain tops, surrounded by a sea of unsuitable habitats. Wolverines occupy habitat in a high-elevation band from 2,100 m to 2,600 m (6,888 ft to 8,528 ft) in the mountains of the lower 48 States. The intervening valleys in this area range from 975 m to 1,500 m (3,198 ft to 4,920 ft), and are unsuitable for long-term wolverine habitat because they do not have the snow conditions or other habitat features required by wolverines (Aubry et al. 2007, pp. 2151–2153).

The low population densities and reduced genetic diversity of wolverines in the contiguous United States means that, to avoid further inbreeding or local extirpation due to demographic stochasticity, regular exchange of individual wolverines between islands of habitat must occur. Intermountain valleys are increasingly the sites of human residential and commercial developments and transportation corridors, and represent semi-permeable barriers to wolverines. Although crossings of valleys, primarily by males (e.g., Packila et al. 2007, Fig. 2, 3), have been documented, these crossings are not common, and movements within valleys occur less frequently than movements in suitable wolverine habitats (Packila et al. 2007, p. 110).

Wolverine populations in the Canadian Rockies also exist on habitat islands, but the islands are much larger (Copeland 2007, p. 24) and host larger populations so that exchange of

individuals is likely to be less critical for short-term maintenance of genetic diversity and demographic stability. Farther north into Canada and Alaska, the climate becomes progressively colder and persistent spring snow and Hudsonian/arctic/sub-arctic habitat associations occur progressively lower on mountain slopes, until near the Arctic Circle where these conditions are found at sea level. Wolverines track these latitudinal and elevation gradients by inhabiting progressively lower elevations in northern Canada and Alaska until valley bottom habitats become suitable habitat and wolverines exist over large expanses of contiguous habitat in well-connected populations (COSEWIC 2003, pp. 7–8). In the far north of Canada, wolverine habitat extends into low-elevation valleys and the vast expanses of low-elevation boreal forest and tundra. Although these differences in biological conservation status between the United States and Canadian wolverine populations exist, they are not significant in light of section 4(a)(1)(D).

In the contiguous United States, wolverines must cross unsuitable habitats to achieve connectivity among subpopulations, which is required to avert further genetic drift and continued loss of genetic diversity (Cegelski et al. 2006, p. 208; Copeland 2007, entire; Brock et al. 2007, pp. 36–53). The highly fragmented nature of the habitat in the contiguous United States contributes to the low effective population size for wolverines in this area by dividing the population among semi-isolated subpopulations, making the continued persistence of the population precarious relative to the Canadian population. Canadian habitats are generally contiguous blocks that have few or no impediments to demographic or genetic connectivity. The fragmented nature and distribution of wolverine habitat in the lower United States results in a contiguous U.S. population that is more vulnerable to extirpation because of lack of connectivity between subpopulations, which contributes to inbreeding and reduces the chances of recolonization of habitat patches after local extinction. Although these differences in biological conservation status between the United States and Canadian wolverine populations exist, they are not significant in light of section 4(a)(1)(D).

Legal Status Conveyed by National, State and Provincial Governments

The United States currently confers no Federal status on the wolverine. Each

State regulates the species relative to its existing populations. In Washington, the wolverine is listed as State Endangered (State of Washington 2007, p.3); Idaho and Wyoming designate it as a protected nongame species (State of Idaho 2006, p. 9; State of Wyoming 1996, pp. 151–154); and in Montana it is a regulated furbearer (State of Montana 2007, p. 2). Oregon, while currently not considered to have any individuals other than possible unsuccessful dispersers, has a closed season on trapping of wolverines (State of Oregon 2006, p. 2).

The Canadian government has listed its eastern population of wolverine in Quebec and Labrador, where it may be extirpated due to trapping and hunting, and declining caribou herds, as Endangered under the Species at Risk Act (SARA) (www.speciestrisk.gc.ca). Because wolverines in this area appear to have been extirpated since the early 1900s, we do not consider this area to be in the wolverine's current range, and thus its status is not relevant to the question of whether significant differences in status exist between Canada and the contiguous 48 United States. The Western population of wolverine occurs in eight Canadian Provinces, two of which (British Columbia and Alberta) are contiguous to the lower 48 United States. This population in Canada has no status under SARA, but has a designation of Special Concern (Vulnerable) under the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) (<http://www.specActrisk.gc.ca>). British Columbia and Alberta have Provincial species conservation lists, which are priority-setting tools for establishing baseline ranks and conservation activities (Province of British Columbia 2002, p. 1). Both Provinces include the wolverine on their provincial "blue list," indicating that it may be at risk (Petersen 1997, p. 1), except on Vancouver Island where the wolverine is possibly extirpated and is "red listed" (threatened, endangered, or candidate; not harvested) (Lofroth and Ott 2007, p. 2193; Province of British Columbia 2002, p. 2).

Because British Columbia and Alberta are contiguous to a larger, and currently more robust, portion of the wolverine's range in northwestern Canada, documented declines in wolverine populations in the southern portions of both Provinces have not raised the status of the species to a level of concern that would result in its consideration under SARA (Lofroth and

Krebs 2007, pp. 2164–2165; Lofroth and Ott 2007, p. 2193; Petersen 1997, pp. 4–5).

Summary of Differences in Conservation Status

As described above, the wolverine has a range of legal statuses under State regulations in the United States and Canadian Provincial designations. The differences in legal conservation status conveyed by the States and Provinces are mixed in each country, but do not appear significantly different from each other. Some differences exist in terms of biological conservation status related to small and effective population sizes, and habitat availability and connectivity. When evaluating whether these differences are significant enough to use the international boundary under the discreteness criterion, our policy directs that these differences must be significant in light of 4(a)(1)(D) of the Act (61 FR 4725). We have concluded that the differences in biological conservation status between the United States and Canadian wolverine populations are not significant in light of section 4(a)(1)(D) of the Act because these differences appear to be a result of the relatively small and patchy distribution of wolverine habitat at the southern terminus of its range in the contiguous United States rather than as a result of inadequate regulatory mechanisms. Therefore, we determine that the contiguous United States population of wolverine is not discrete due to differences in conservation status.

Differences in Control of Exploitation and Regulatory Mechanisms

Contiguous U.S. populations are largely not harvested, with the exception being an average of 10.5 wolverines taken a year in Montana. In Canada and Alaska, harvest is widespread within the current range. Although we do not have comprehensive numbers for the annual wolverine harvest in Canada, we have estimated a total annual harvest of 719 animals (see Table 2) based on the best information available to us. The numbers below are likely underestimates because they are based on reported harvests, which in Canadian territories likely accounts for only one-fifth to one-third of the total harvest because of unreported harvest by local communities (Melchoir et al. 1987 as cited in Banci 1994, p. 101).

TABLE 2.—ESTIMATED ANNUAL WOLVERINE HARVEST IN CANADA

Province or territory	Estimated annual harvest	Source
British Columbia	175	Lofroth and Ott, 2007, pp. 2196–2197.
Alberta	37	Province of Alberta 2006, p. 14.
Saskatchewan	10	COSEWIC 2003, Table 1.
Manitoba	48	COSEWIC 2003, Table 1.
Ontario	8	COSEWIC 2003, Table 1.
Yukon	150	COSEWIC 2003, Table 1.
Northwest Territories	209	COSEWIC 2003, Table 1.*
Nunavut	82	COSEWIC 2003, Table 1.^
Total	719	

*Corrected to adjust for majority being unreported in pelt production statistics.

^ Corrected using Dumond and Krizan 2002 as cited in COSEWIC 2003 p. 17.

Based on these harvest numbers and a minimum population estimate of 15,089 (COSEWIC 2003, p. 22), we conservatively estimate that harvest in Canada is a minimum of 4.7 percent of the population annually. Human-caused mortality of wolverines is likely additive to natural mortality due to the low reproductive rate and relatively long life expectancy of wolverines (Krebs et al. 2004, p. 499; Lofroth and Ott 2007, pp. 2197–2198; Squires et al. 2007, pp. 2218–2219).

An estimated 15,089 to 18,967 wolverines occur in Canada where suitable habitat is plentiful (COSEWIC 2003, pp. 14–22). Because of this abundance of habitat, protection and intensive management are not necessary to conserve wolverines in western Canada. This situation contrasts with the situation in the contiguous United States, where habitat is fragmented and limited to higher elevations over portions of four States (Washington, Idaho, Montana, and Wyoming).

Of the four lower 48 States where the wolverine currently persists, trapping and hunting of the species is prohibited in all except Montana where the bulk of the species resides. Montana trapping and hunting regulations define the wolverine as a furbearer, and establish a 2.5-month season for both hunting and trapping that runs from December 1 to February 15. A quota of 1 animal per person, up to a total of 12 wolverines per season across all Wolverine Management Units is established; the quota limits the number of wolverines that may be taken in each of three Management Units so that take of animals is distributed across drainages (State of Montana 2007, pp. 2–3, 5, 8).

Across the border from the U.S. wolverine population, the Canadian Province of British Columbia defines the wolverine as a commercial furbearer, and assigns it a Regulated Harvest status as a Class 2 Species under its Fur

Management Program, which means it is regulated regionally in consultation with local trappers. No quotas are established, but reporting and inspection of carcasses is required in most regions of the Province. The trapping season is open for 3 to 4 months, from November 1 through January or February, depending on the region (Province of British Columbia 2007, pp. 90–96). Approximately 175 wolverines are harvested each year under this system (out of a total estimated population of 3,532), equating to a harvest of 5 percent (Lofroth and Ott 2007, pp. 2196–2197). However, as stated above, in Canada, due to local use, a significant portion of the harvest may go unreported.

The Canadian Province of Alberta has regulated wolverine trapping since 1989. An average of 37 animals per year is harvested within the Province (Province of Alberta 2006, p. 14). Trapping seasons are established for Fur Management Zones (FMZs) within the Province and run for 3 months, from November 1 to January 31. Quotas are designated in 6 FMZs, and establish an annual trap limit of 1 wolverine per trapper in each Wildlife Management Unit (Province of Alberta 2006, p. 8). Two additional FMZs, that comprise a large area of southeastern Alberta, are closed to trapping (Province of Alberta 2006, pp. 8, 11, 14); however, these areas are outside the species' normal range (Petersen 1997, p. 5) and, although they are adjacent to the United States, are not adjacent to wolverine populations in the United States.

The regulation of exploitation of wolverines is mixed within its current range in the contiguous United States, Alaska, and Canada. Controls on the exploitation of wolverine exist in the contiguous United States, with an average of 10.5 wolverine taken in Montana (2.1 percent of the estimated U.S. population of 500), the only State

allowing trapping or hunting of wolverine. In Alaska, an average of 500 wolverines are harvested per year from a population of unknown size (assuming a 6 percent harvest rate, the population would be approximately 8,000 individuals). In Canada, an average of 719 wolverines are harvested per year (4.7 percent of a population of approximately 15,000; see table 2).

We conclude that differences in control of exploitation and regulatory mechanisms between the contiguous United States and Canada are not significantly different. When evaluating whether differences are significant enough to use the international boundary under the discreteness criterion, our policy directs that these differences must be significant in light of 4(a)(1)(D) of the Act (61 **Federal Register** 4725). We conclude that the differences in control of exploitation between the United States and Canadian wolverine populations are not significant in light of section 4(a)(1)(D) of the Act because in both countries exploitation appears to be adequately regulated according to what the overall population can sustain. This conclusion is supported by the fact that wolverine populations appear to be able to sustain the current rate of mortality due to trapping and hunting (approximately 6 percent in Alaska, 4.7 percent throughout western Canada, and 2.1 percent in the contiguous United States). Therefore, we determine that the contiguous United States population of wolverine is not discrete due to differences in control of exploitation.

Summary for Discreteness

The international boundary between Canada and the United States currently leads to some differences in the control of exploitation and conservation status of the wolverine. However, we find that these differences between Canada and the contiguous United States do not

result in significant differences in light of section 4(a)(1)(D) of the Act because they are not the result of inadequate regulatory mechanisms that place the U.S. population at risk. Therefore, we have determined that the U.S. portion of the range does not meet the discreteness criteria in our DPS Policy (61 FR 4725).

The Service finds that the existing data do not indicate that North American wolverines in the contiguous United States are “markedly separated” from those in Canada and Alaska. Consequently, the Service is unable to conclude at this time that the petitioned entity is discrete according to our DPS policy. Therefore, the North American wolverine in the contiguous United States does not qualify as a distinct population segment and is not a listable entity under the Act. Because we have determined that the population of the North American wolverine in the contiguous United States is not discrete and therefore not a DPS and a listable entity under the Act, we do not need to consider whether the population is significant with regards to the DPS policy or the conservation status pursuant to Section 4(a)(1) of the Act.

Significant Portion of the Range Analysis

Because the petitioned action was to list the wolverine in the contiguous United States, after determining that the wolverine in this portion of its range is not a distinct population segment (DPS), we analyzed whether it would constitute a significant portion of the range of the North American subspecies. On March 16, 2007, a formal opinion was issued by the Solicitor of the Department of the Interior, “The Meaning of ‘In Danger of Extinction Throughout All or a Significant Portion of Its Range’” (DOI 2007). A portion of a species’ range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability of the species to persist.

In determining whether the petitioned entity warranted listing as threatened or endangered throughout a significant portion of its range, we first determine whether there is substantial information indicating that (1) the petitioned entity constitutes a significant portion of the range, and (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats

to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the range that are unimportant to the conservation of the species, such portions will not warrant further consideration.

If we identify any portions that warrant further consideration, we then determine whether the species is threatened or endangered in any significant portion. If we determine that a portion of the range is not significant, we do not determine whether the species is threatened or endangered there.

The terms “resiliency,” “redundancy,” and “representation” are intended to be indicators of the conservation value of portions of the range. Resiliency of a species allows it to recover from periodic disturbances. A species will likely be more resilient if large populations exist in high-quality habitat that is distributed throughout its range in a way that captures the environmental variability available. A portion of the range of a species may make a meaningful contribution to the resiliency of the species if the area is relatively large and contains particularly high-quality habitat, or if its location or characteristics make it less susceptible to certain threats than other portions of the range. When evaluating whether or how a portion of the range contributes to resiliency of the species, we evaluate the historical value of the portion and how frequently the portion is used by the species, if possible. The range portion may contribute to resiliency for other reasons; for instance, it may contain an important concentration of certain types of habitat that are necessary for the species to carry out its life-history functions, such as breeding, feeding, migration, dispersal, or wintering.

Redundancy of populations may be needed to provide a margin of safety for the species to withstand catastrophic events. This concept does not mean that any portion that provides redundancy is per se a significant portion of the range of a species. The idea is to conserve enough areas of the range so that random perturbations in the system only act on a few populations. Therefore, we examine each area based on whether that area provides an increment of redundancy that is important to the conservation of the species.

Adequate representation ensures that the species’ adaptive capabilities are conserved. Specifically, we evaluate a range portion to see how it contributes

to the genetic diversity of the species. The loss of genetically based diversity may substantially reduce the ability of the species to respond and adapt to future environmental changes. A peripheral population may contribute meaningfully to representation if there is evidence that it provides genetic diversity due to its location on the margin of the species’ habitat requirements.

Because the petition to list the wolverine only specified the portion of the subspecies’ range in the contiguous United States, we assessed whether this portion is important to the conservation of the subspecies because it contributes meaningfully to the representation, resiliency, or redundancy of the species.

For resiliency, we evaluated whether the contiguous U.S. wolverine population occupies relatively large or particularly high-quality habitat, or if its location or characteristics make it less susceptible to certain threats than other portions of the range. We determined that the contiguous U.S. wolverine population constitutes a relatively small area of patchily distributed lower-quality habitat when compared to the *Gulo gulo luscus* range overall. Additionally, we find that the characteristics of the contiguous U.S. wolverine population make it more susceptible to certain threats than other portions of the range because of the isolated patchy “sky island” habitats at the southern terminus of its range. Additionally, we evaluated the historical value of the contiguous U.S. portion of the wolverine range and how frequently the portion is used by the species, and whether the portion contains an important concentration of certain types of habitat that are necessary for the species to carry out its life-history functions, such as breeding, feeding, migration, dispersal, or wintering. We found that the contiguous U.S. wolverine population does not meaningfully contribute to resiliency because the habitats necessary for breeding, feeding, migration, dispersal, or wintering are found distributed throughout its range and are not solely found in the contiguous United States. Therefore, we conclude that the contiguous U.S. wolverine population does not contribute meaningfully to the resiliency of *G. g. luscus*.

In analyzing redundancy, we evaluated whether the contiguous U.S. portion of the wolverine range is necessary to provide a margin of safety for the species to withstand catastrophic events. We also examined the contiguous U.S. portion of the wolverine range to determine whether that area provides an increment of

redundancy that is important to the conservation of the species. In North America, wolverines occur within a wide variety of arctic, sub-arctic and alpine habitats, primarily boreal forests, tundra, and western mountains throughout Alaska and Canada, with two small peninsulas of habitat extending into the North Cascades and the Northern Rocky Mountains in the contiguous United States. The portion of the range that extends into the contiguous United States is small in relation to the entire range of the subspecies. Additionally, the actual area amount of habitat in the contiguous United States is more fragmented in nature than habitat found elsewhere throughout the range, which results in a smaller proportion of actual habitat in the contiguous U.S. portion than what is generally indicated on "range" maps (see "*Habitat Availability and Connectivity*" section above). Finally, a small proportion of the total wolverine population occurs in the contiguous United States. Assuming 8,333 wolverine occur in Alaska (as described in the control of exploitation section above), 15,089 wolverine occur in Canada, and 500 wolverine occur in the contiguous United States, the contiguous United States portion accounts for only 2 percent of the entire *G. g. luscus* population. Thus, we determined that the contiguous U.S. wolverine population does not significantly contribute to the redundancy of *G. g. luscus*.

In determining whether the contiguous U.S. wolverine population contributed to representation, we evaluated whether it contributes to the genetic diversity of the species. Adequate representation ensures that the species' adaptive capabilities are conserved. Wolverines in the contiguous United States contain a subset of the genetic haplotypes found in the Canadian populations, and therefore do not represent a unique population. Thus, the species does not meaningfully contribute to representation of *Gulo gulo luscus*. The populations in Canada and Alaska are relatively large and contiguous, and are not dependent on connectivity to the contiguous U.S. population.

Based on the discussion above, we determined that the contiguous United States portion of the current range of the North American wolverine is not significant to the *Gulo gulo luscus* subspecies, and therefore does not warrant further consideration to determine if it is a significant portion of the range that is threatened or endangered. In addition, we find that historical habitat in the contiguous

United States that is no longer occupied would not raise the status of this portion of the range as being significant to the subspecies.

Finding

We have carefully assessed the best scientific and commercial information available regarding threats to the contiguous United States population of the wolverine. We reviewed the petition, and available published and unpublished scientific and commercial information. This 12-month finding reflects and incorporates information that we received during the public comment period or that we obtained through consultation, literature research, and field visits.

On the basis of this review, we have determined that the contiguous United States population of the North American wolverine does not constitute a distinct population segment (DPS) under the Act and therefore a listable entity unto itself. We also find that the contiguous United States population of the North American wolverine is not a significant portion of the range of the North American subspecies and does not warrant further consideration under the Act. Therefore, we find that the petition to list the North American wolverine that occurs in the contiguous United States is not warranted for listing.

References Cited

A complete list of all references cited is available upon request from the Supervisor, at the U.S. Fish and Wildlife Service, Montana Field Office (see **ADDRESSES**).

Author

The primary author of this document is staff of the Mountain-Prairie Region of the U.S. Fish and Wildlife Service, 134 Union Blvd., Ste. 145, Lakewood, Colorado 80228 (also see **ADDRESSES**).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: February 28, 2008.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E8-4197 Filed 3-10-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

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; correction.

SUMMARY: This document corrects the fax number in the **ADDRESSES** section of a proposed rule published in the **Federal Register** of March 5, 2008.

FOR FURTHER INFORMATION CONTACT: Marta Nammack at 301-713-1401.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. E8-4231, beginning on page 11849 in the issue of March 5, 2008, make the following correction, in the Preamble. On page 11849, column two, line 8 of the **ADDRESSES** section, replace "978-281-9394" with "301-713-0376".

Dated: March 6, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 08-1000 Filed 3-6-08; 2:54 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071017601-7812-02]

RIN 0648-AW17

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2008 Georges Bank Cod Fixed Gear Sector Operations Plan and Agreement, and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule provides interested parties an opportunity to comment on the proposed Sector Operations Plan and Supplemental Environmental Assessment (EA) prior to final approval or disapproval of the Sector Operations Plan and allocation of Georges Bank (GB) cod total allowable catch (TAC) to the Fixed Gear Sector for fishing year (FY) 2008.

Framework Adjustment (FW) 42 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) created the Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear Sector) and authorized allocation of up to 20 percent of the annual GB cod TAC to the Fixed Gear Sector. Pursuant to that authorization, a representative of the Fixed Gear Sector has submitted an Operations Plan and Sector Agreement (Contract), and requested an allocation of GB cod to the Fixed Gear Sector for FY 2008.

DATES: Written comments must be received on or before March 26, 2008.

ADDRESSES: You may submit comments, identified by 0648-AW17, 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) 281-9135, Attn: Mark Grant,
- Mail: One Blackburn Drive, Gloucester, MA 01930.

Instructions: All comments received are 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 publically 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.

Copies of the Sector Agreement and the EA are available from the NE Regional Office at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Policy Analyst, phone (978) 281-9145, fax (978) 281-9135, e-mail Mark.Grant@NOAA.gov.

SUPPLEMENTARY INFORMATION: NMFS announces that the Administrator, NE Region, NMFS (Regional Administrator), has made a preliminary determination

that the Fixed Gear Sector Agreement, which contains the Sector Contract and Operations Plan, is consistent with the goals of the FMP and other applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under § 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and the allocation of TAC for specific groundfish species (or days-at-sea (DAS)), implemented restrictions that apply to all sectors, and authorized the first sector of the FMP (the GB Cod Hook Sector).

The Fixed Gear Sector was established by FW 42 (71 FR 62156, October 23, 2006). The FW 42 regulations that apply to the Fixed Gear Sector specify that: (1) All vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Fixed Gear Sector, provided they have documented landings of GB cod through valid dealer reports submitted to NMFS during FY 1996 through 2001 (regardless of gear fished); (2) membership in the Fixed Gear Sector is voluntary, and each member must remain in the Fixed Gear Sector for the entire fishing year and may not fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Fixed Gear Sector (participating vessels) are confined to fishing in the GB Cod Hook Sector Area, which is that portion of the GB cod stock area north of 39° 00' N. lat. and east of 71° 40' W. long; and (4) participating vessels must comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization, and the provisions of an approved Operations Plan.

Although FW 42 established the Fixed Gear Sector, in order for GB cod to be allocated to the Fixed Gear Sector and the Fixed Gear Sector authorized to fish, the Fixed Gear Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Fixed Gear Sector participants and a plan containing the management rules that the Fixed Gear Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Fixed Gear Sector's proposed operations may be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the

proposed Operations Plan and Sector Contract. The regulations require that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

The Fixed Gear Sector was authorized to fish in FY 2006 and FY 2007, and, based upon the GB cod landings history of its members, was allocated <1.0 and 10.7 percent, respectively, of the annual GB cod TAC.

On September 28, 2007, the Fixed Gear Sector submitted a draft FY 2008 Operations Plan and Sector Agreement and a Supplemental EA to NMFS. The proposed 2008 Fixed Gear Sector Agreement and Operations Plan contains the same elements and proposed exemptions as the 2007 Fixed Gear Sector Agreement and Operations Plan. The Fixed Gear Sector Agreement would be overseen by a Board of Directors and a Sector Manager. The Fixed Gear Sector Agreement specifies, in accordance with Amendment 13, that the Fixed Gear Sector's GB cod TAC would be based upon the number of Fixed Gear Sector members and their historic landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is reached, Fixed Gear Sector vessels could not fish under a DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). Should the hard TAC be exceeded, the Fixed Gear Sector's allocation would be reduced by the overharvest in the following year.

The 2008 Operations Plan proposes exemptions from the following restrictions of the FMP: The GB cod trip limit; the GB Seasonal Closure Area (when fishing with hook gear); the 3,600-hook limit for longline gear in the GB Regulated Mesh Area (RMA); and the 2,000-hook limit for longline gear in the Gulf of Maine (GOM) and Southern New England (SNE) RMAs. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) is summarized in the Classification section of this proposed rule.

In a concurrent proposed rule NMFS proposed to modify the regulations that define eligibility criteria for membership in the GB Cod Hook Sector and the Fixed Gear Sector, in order to

be consistent with the New England Fishery Management Council's (Council's) intent. The criterion requiring documented landings of GB cod to be eligible to join the GB cod Hook and Fixed Gear Sectors was not explicitly included in the Council documents that proposed formation of the two sectors, Amendment 13 and FW 42, respectively. The implications of this eligibility criterion (requiring landings history of GB cod) were not apparent at the time of implementation, but became apparent during the evaluation of sector Operations Plans for FY 2008. The proposed roster for the Fixed Gear Sector for FY 2008 contains vessels that did not land GB cod during the period 1996 to 2001. The current regulations would prevent such vessels without GB cod landings from joining a sector. In anticipation of the approval of the proposed change to sector eligibility requirements, the Fixed Gear Sector has included vessels without a history of landing GB cod in its proposed roster for FY 2008.

Twenty-nine prospective Fixed Gear Sector members signed the 2008 Fixed Gear Sector Contract. The GB cod TAC calculation is based upon the historic GB cod landings of the participating vessels, using all gear. The allocation percentage is calculated by dividing the sum of total landings of GB cod by Sector members for FY 1996 through 2001, by the sum of the total accumulated landings of GB cod harvested by all NE multispecies vessels for the same time period. Based upon the 29 prospective members (and their associated GB cod landings history), the Fixed Gear Sector's share of the overall U.S. portion of the GB cod TAC would be 13.99 percent, or 3,152,802 lb (1,430 mt) (13.99 percent times the fishery-wide GB cod target TAC of 22,535,656 lb (10,222 mt)). If prospective members of the Fixed Gear Sector are deemed ineligible to, or decide not to, participate in the Fixed Gear Sector after the publication of this proposed rule and prior to a final decision by the Regional Administrator, it is possible that the total number of participants in the Sector and the TAC for the Sector may be reduced from the numbers above, but no additional members may join the Fixed Gear Sector for FY 2008. Also, the TAC for the Fixed Gear Sector could be further reduced, should the provision in the GB Cod Hook Sector proposed rule that revises the eligibility criterion for both sectors not be approved.

The Sector Contract contains procedures for the enforcement of the Operations Plan, a schedule of penalties, and provides the authority to

the Fixed Gear Sector Manager to issue stop fishing orders to members of the Fixed Gear Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Fixed Gear Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading. Dealers purchasing fish from participating vessels would be required to provide the Fixed Gear Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Fixed Gear Sector Manager would transmit to NMFS aggregate catch data from dealer slips and aggregate discard data from the VTRs. After 90 percent of the Fixed Gear Sector's allocation has been harvested, the Fixed Gear Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Fixed Gear Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month participating vessels may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. The harvest rules would not preclude a vessel from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program regulations to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Fixed Gear Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, handgear, or sink gillnets. Participating Fixed Gear Sector vessels fishing with hook gear could use an unlimited number of hooks in the Sector Area and would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Fixed Gear Sector operations concludes that the biological impacts of the Fixed Gear Sector will be positive because the hard TAC and the use of DAS would provide two means of restricting both the

landings and effort of the Fixed Gear Sector. Implementation may have a positive impact on essential fish habitat (EFH) and bycatch, if the Fixed Gear Sector's quota is caught prior to the end of the fishing year, by reducing the amount of time that gear would be in the water. The analysis of economic impacts of the Fixed Gear Sector concludes that the members would realize higher economic returns if the Fixed Gear Sector is implemented. The EA asserts that fishing in accordance with the Sector Contract rules enables more efficient harvesting of GB cod with hook and gillnet gear than would be possible if the vessels were fishing in accordance with the common pool (non-sector) rules. The social benefits of the Fixed Gear Sector would accrue to sector members, as well as the Chatham, MA, and Harwichport, MA, communities, which are more dependent upon groundfish revenues as a percentage of fishery-derived landings than many other communities. The EA concludes that the self-governing nature of the Fixed Gear Sector and the member's opportunity to develop rules governing the way in which they harvest their GB cod TAC enables stewardship of the cod resource by the Fixed Gear Sector. The cumulative impacts of the Fixed Gear Sector are expected to be positive due to a positive biological impact, potential positive impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Sector Contract as proposed, a Letter of Authorization would be issued to each member of the Fixed Gear Sector exempting them, conditional upon their compliance with the Sector Contract, from the GB cod possession restrictions, the 3,600-hook limit in the GB RMA, the 2,000-hook limit in the GOM and SNE RMAs and the GB Seasonal Closure Area when using hook gear, as specified in §§ 658.86(b)(2), 648.80(a)(4)(v), 648.80(a)(3)(v), 648.80(b)(2)(v) and 648.81(g), respectively.

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 Northeast Multispecies 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 (E.O.) 12866.

This proposed rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of this section, the preamble and the EA prepared for this action. Below is a summary of the IRFA, which describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule and in sections 1.0, 2.0, and 3.0 of the EA prepared for this action. The Small Business Administration size standard for small commercial fishing entities is \$4 million in average annual receipts, and the size standard for small charter/party operators is \$6.5 million in average annual receipts. All permitted and participating vessels in the groundfish fishery, including prospective Fixed Gear Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold, and, therefore there is no disproportionate impact between large and small entities. While an entity may own multiple vessels, available data make it difficult to determine which vessels may be controlled by a single entity. For this reason, each vessel is treated as a single entity for purposes of size determination and impact assessment. All permitted and participating vessels in the groundfish fishery, including prospective Fixed Gear Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold. The number of prospective participants in the Fixed Gear Sector is 29, substantially less than the total number of active vessels in the groundfish fishery. Only these 29 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Fixed Gear Sector for FY 2008.

Economic Impacts of the Proposed Action

The proposed alternative would allocate a GB cod TAC of 1,430 mt to the Fixed Gear Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a NE multispecies DAS, possess or land GB cod, or other regulated species managed

under the NE multispecies FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Vessels intending to fish in the Fixed Gear Sector during FY 2008 may only fish with hook gear or gillnet gear and may not fish for NE multispecies under a NE multispecies DAS during FY 2008 until the Sector Operations Plan is approved. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this proposed rule and in the EA.

The fixed gear fishermen and the Chatham, MA, and Harwichport, MA, communities are dependent upon GB cod and other groundfish. The Amendment 13 restrictions that reduced the GB cod trip limit had a disproportionate affect on these fixed gear fishermen. According to Amendment 13, Chatham's overall community dependence on NE multispecies as a percentage of total fisheries revenues from federally permitted vessels averaged about 71 percent and likely at least some of the active groundfish vessels in Chatham and Harwichport are even more than 71 percent dependent on the NE multispecies fishery. Because the Fixed Gear Sector was implemented late in FY 2006, and data from FY 2007 are not yet complete, only limited quantitative data on the precise economic impact of the Fixed Gear Sector are available. In FY 2006, the Fixed Gear Sector made one trip and landed 5 lb (2.3 kg) of GB cod; preliminary FY 2007 data show that the Sector has made 564 trips and landed 735,355 lb (333,551 kg) of GB cod. However, a qualitative assessment of the Fixed Gear Sector is possible.

The proposed alternative would positively impact the 29 vessels that have voluntarily joined the Fixed Gear Sector, who are relatively dependent upon cod revenue compared to other participants in the groundfish fishery. The proposed alternative would indirectly benefit the communities of Chatham, MA, and Harwichport, MA, and to a lesser extent other Cape Cod, MA, communities involved in the groundfish fishery. Allocation of cod TAC to a sector and the development of alternative fishing restrictions would mitigate the impacts of Amendment 13 and subsequent framework adjustments. Specifically, the proposed Operations Plan enables Fixed Gear Sector members to fish under a set of rules crafted by Fixed Gear Sector members in order to adapt to current economic and fishing conditions. The Fixed Gear Sector, by fishing under rules that are designed to meet their needs (as well as the

conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. Fixed Gear Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip), by targeting seasonal aggregations of cod, due to the exemption from trip limits and hook numbers. For example, preliminary data from FY 2007 indicate that Fixed Gear Sector members landed 735,355 lb (333,551 kg) of GB cod in 564 trips; however, had the Fixed Gear Sector members been subject to the daily trip limit (1,000 lb/day; 454 kg/day) in place for the common pool vessels (non-sector vessels), they would have been prevented from landing 171,355 lb (77,725 kg) of that total.

Thus, this proposed rule would enable Fixed Gear Sector members to remain economically viable by maximizing revenues and minimizing expenses in the short term. This would also help to maintain associated shoreside job opportunities.

No other alternatives beyond the No Action were considered as part of this proposed action. The RFA requires each IRFA to include a description of significant alternatives that accomplish the objectives of applicable statutes (in this case, sector provisions) and minimize any significant economic impact to small entities. The objectives of sector management, as originally developed and implemented under Amendment 13 to the FMP, are to provide opportunities for like-minded vessel operators to govern themselves so that they can operate in a more effective and efficient manner. The Fixed Gear Sector developed the proposed operations plan after consultation with prospective members. Prospective members then signed a binding sector contract to abide by the measures specified in the proposed operations plan. As described above, the proposed operations plan minimizes economic impacts to participating vessels by allowing them to operate more efficiently. Accordingly, the proposed operations plan reflects the management measures preferred by vessels participating in the Fixed Gear Sector during FY 2008 and represents all of the significant alternatives that accomplish the objectives of sector provisions and minimize economic impacts to small entities, as required by the RFA. Therefore, in conjunction with the NEPA requirement to consider a reasonable range of alternatives, no

other alternatives were considered as part of this proposed action.

Economic Impacts of Alternative to the Proposed Action

Under the No Action alternative, all Fixed Gear Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent Framework Adjustments, and there would be no allocation of GB cod to the Fixed Gear Sector. Because cod usually represents a high proportion of total fishing income for Cape Cod-based gillnet and hookgear vessels, revenues for such vessel owners are very sensitive to regulations that impact how and when they can fish for cod, such as trip limits and restrictions on the number of hooks fished. Under the

common pool rules implemented by FW 42 (e.g., differential DAS counting) and Amendment 13 (restrictive daily trip limits for cod), it is likely that Fixed Gear Sector vessels would experience revenue losses. Based on the limited FY 2007 data, assuming a dock-side price of \$1.50 per lb (\$3.30 per kg) for cod, members of the Fixed Gear Sector would already have lost \$257,032.50 (171,355 lb (77,725 kg) X \$1.50 per lb (\$3.30 per kg)) in revenue if they were not exempt from the cod possession limit. It is more likely under the No Action alternative that disruption to the Chatham/Harwichport communities would occur.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

This proposed rule contains no collection-of-information requirement subject to the Paperwork Reduction Act.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

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

Dated: March 6, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service
[FR Doc. E8-4803 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 73, No. 48

Tuesday, March 11, 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

Natural Resources Conservation Service

Pine Barren Creek Watershed, Escambia County, AL

AGENCY: Natural Resources Conservation Service (NRCS) in Alabama, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: The Pine Barren Creek Watershed is a federally assisted action authorized for planning under Public Law 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of a watershed plan that outlines alternatives for flood reduction within the City of Atmore, Alabama.

FOR FURTHER INFORMATION CONTACT: Shannon Weaver, Assistant State Conservationist for Natural Resources. (334) 887-4533 or e-mail: shannon.weaver@al.usda.gov.

SUPPLEMENTARY INFORMATION: The Supplemental Watershed Plan describes a plan for reduction of flooding at Atmore, Alabama. The plan will be implemented by providing financial and technical assistance through a local sponsor. The project measures described within the plan will reduce the potential for flooding within the watershed and will also reduce the potential risk to human health and safety. The Environmental Assessment indicates that this Federal action will not cause significant adverse local, regional, or national impacts on the environment.

Dated: February 19, 2008.

Gary Kobylski,
State Conservationist.

Finding of No Significant Impact for Pine Barren Creek Watershed, Escambia County, Alabama, January 2008

Introduction

The Pine Barren Creek Watershed is a federally assisted action authorized for planning under Public Law 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the supplemental watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. The Supplemental Watershed Plan and Environmental Assessment are available for public review at the following locations:

U.S. Department of Agriculture, Natural Resources Conservation Service, 175 Ag Science Drive, Suite A, Brewton, Alabama.	Altmore Public Library, 700 E. Church Street, Atmore, Alabama
U.S. Department of Agriculture, Natural Resources Conservation Service, 3381 Skyway Drive, Auburn, Alabama.	City Hall, City of Atmore, 201 East Louisville Ave., Atmore, Alabama.
Brewton Public Library, 206 West Jackson Street, Brewton, Alabama.	

Recommended Action

The Supplemental Watershed Plan describes a plan for reduction of flooding in Atmore, Alabama. The plan will be implemented by providing financial and technical assistance through a local sponsor.

The principal project measures are to:

1. Deepen an existing channel located in the headwaters of Pine Barren Creek.
2. Install a grade stabilization structure.
3. Modify an existing weir structure.
4. Install reinforced concrete pipe laterals within the residential area of Atmore.

Effects of Recommended Action

The project measures will reduce the potential for flooding within the

watershed and will also reduce the potential risk to human health and safety. The modified weir structure will be designed to release no more water than that which was released prior to project implementation. Thus, the creation of additional flow downstream during storm events will be avoided.

Wildlife habitat will not be disturbed during installation of the structural work of this project. No wetlands, wildlife habitat, fisheries, prime farmland, or cultural resources will be destroyed or threatened by this project. The value of woodland habitat will not decline. Fishery habitats will also be maintained.

No endangered or threatened plant or animal species will be adversely affected by the project.

There are no wilderness areas in the watershed.

Alternatives

Five alternative plans were considered in project planning. No significant adverse environmental impacts are anticipated from installation of the selected alternative. Also, the planned action is the most practical and cost effective means of reducing flooding in the watershed.

Consultation—Public Participation

Flooding and water quality concerns in the Pine Barren Creek Watershed were expressed by local citizens, City of Atmore officials, Escambia County Soil and Water Conservation District, and other regional residents. NRCS personnel in partnership with the City of Atmore, explored alternatives to relieve flooding problems, while maintaining water quality in Pine Barren Creek. Two interagency meetings were held to gather input from local, state, and federal government agencies. In addition, two public meetings were held in Atmore to gather public input and concerns.

At the initiation of the planning process, meetings were held between NRCS and the City of Atmore to discuss problem identification and PL-566 requirements. A public meeting was held in June 26, 2003 to scope the problems and concerns and to explain impacts of the PL-566 program initiatives relative to a watershed project and discuss possible solutions.

In order to further publicize this planning effort, a public announcement

was made to State and Federal agencies by letter and to local landowners through local newspapers to announce the change in project purpose.

Evaluations and alternative solutions were developed with the Sponsor and other officials. The Recommended Plan was agreed upon.

Another public meeting was on May 31, 2007. The results of surveys, studies, field investigations and the Alternatives Plans were presented to the public. The Selected Plan was shared with those in attendance.

Based on Field Inspections to determine the quality and quantity of resources that would be impacted by selected practices and to consider possible mitigation measures, it has been determined that an Environmental Impact Statement (EIS) is not needed for this project. Based on the type of practices and systems that are planned, installation on previously disturbed land, an Environmental Assessment (EA) was prepared.

Upon review of the Pine Barren Creek Watershed Plan—EA, this Finding of No Significant Impact (FONSI) was prepared. These documents are being distributed to all concerned agencies, groups, and interested individuals. A Notice of Availability of the FONSI is being published in the **Federal Register**. Agency consultations and public participation to date has shown no conflicts with the implementation of the selected plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant adverse local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the recommended Pine Barren Creek Supplemental Watershed Plan is not required.

Dated: February 19, 2008.

Gary Kobylski,

State Conservationist.

[FR Doc. 08–993 Filed 3–10–08; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration Mission Statement

AGENCY: Department of Commerce.

ACTION: Notice.

Mission Statement; Assistant Secretarial Trade Mission to Vietnam; June 16–20, 2008

I. Mission Description

The United States Department of Commerce, International Trade Administration, U.S. Commercial Service is organizing a Trade Mission to Hanoi and Ho Chi Minh City, Vietnam, June 16–20, 2008, to be led by Assistant Secretary for Trade Promotion and Director General of the U.S. and Foreign Commercial Service Israel Hernandez.

The mission will focus on helping U.S. companies launch or increase their export business in the Vietnamese market. The mission will help participating firms gain market information, make business and government contacts, solidify business strategies, and advance specific projects, towards the goal of increasing U.S. exports to Vietnam. The mission will include business-to-business matchmaking appointments with local companies, as well as meetings with key government officials, and American and local chambers of commerce. The delegation will be comprised of U.S. firms representing a cross section of U.S. industries with commercial interests in Vietnam.

II. Commercial Setting

With a GDP of \$61 billion and a young population of 84 million, Vietnam is one of the fastest growing economies in Asia (8.4% growth in 2006) and a new member of the World Trade Organization (WTO) (January 11, 2007). Since the signing of the U.S.-Vietnam Bilateral Trade Agreement in 2001, two-way trade has increased from about \$1.5 billion (2001) to \$9.7 billion (2006). Total U.S. merchandise exports to Vietnam in 2006 reached \$1.1 billion, and in 2007, U.S. exports grew by an estimated 65.1% over the previous year.

Industrial production continues to grow at 14–15% per annum, as the country follows an increasingly sophisticated foreign investment- and export-led growth strategy in such industries as agriculture and aquaculture, furniture, textiles and now consumer electronics. Over the past five years, multilateral development banks have expanded loan portfolios to fund aggressive infrastructure (transportation, energy, telecommunications) growth and will continue to do so into the foreseeable future. New WTO market-opening commitments will continue to be phased in through 2015, making it easier for U.S. companies to open businesses and sell and distribute products in most major sectors. The telecommunications, power production,

and oil and gas equipment markets are well above \$2.0 billion each and growing significantly each year. IT infrastructure, financial services, environmental products, aviation and airport equipment, security, mining, medical devices and franchising present further lucrative selling opportunities for U.S. exporters. Also, industrial inputs ranging from raw materials to sophisticated manufacturing technology are needed to fuel the Vietnam government's export-led growth strategy. Rising incomes in Ho Chi Minh City and Hanoi, which tend to be four times the national average, are opening visible new selling opportunities for consumer goods producers and service-sector providers.

Vietnam's government has successfully privatized a few small State-Owned Enterprises (SOEs), and will continue to do so. However, in major economic sectors such as energy, banking, telecommunications, oil and gas, and shipping, the government will "equitize" (offer shares of large state corporations to investors while maintaining a majority stake) SOEs over the next five to ten years. While challenges remain for U.S. companies doing business in Vietnam, evolving and improving regulatory and commercial law regimes are beginning to address business corruption, weak intellectual property rights enforcement and a lack of transparency and consistency. The mission is designed to assist U.S. companies to identify and capture these opportunities.

III. Mission Goals

The Business Development Mission to Vietnam will help U.S. firms initiate or expand their exports to Vietnam's leading industry sectors by providing business-to-business introductions, market access information, and information on U.S. Government trade financing programs.

IV. Mission Scenario

The Business Development Mission to Vietnam will include stops in Hanoi and Ho Chi Minh City. In each city, participants will:

- Meet with government officials.
- Meet with potential buyers, agents/distributors and partners.
- Attend briefings by Embassy officials on the economic and commercial climates.

Receptions and other business events will be organized to provide mission participants with further opportunities to speak with local business and government representatives, as well as U.S. business executives living and working in the region.

V. Proposed Timetable

Monday, June 16, 2008

Mission Begins in Hanoi
Market Briefing
Business Delegation Matchmaking
Networking Reception

Tuesday, June 17, 2008

Business Delegation Matchmaking

Wednesday, June 18, 2008

Travel to Ho Chi Minh City
Evening Reception
Thursday, June 19, 2008
Market Briefing
Business Delegation Matchmaking

Friday, June 20, 2008

Business Delegation Matchmaking
Mission Concludes

VI. Participation Requirements

All parties interested in participating in the Vietnam Business Development Mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 22 companies will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with Vietnam as well as experienced U.S. exporters seeking to enter Vietnam for the first time are particularly encouraged to apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be \$3,750 per firm, which includes one principal representative. The fee for each additional firm representative is \$850. Expenses for travel, lodging, most meals, and incidentals will be the responsibility of each mission participant. The option to participate in the mission is also being offered to U.S.-based firms with an established presence in Vietnam or neighboring countries; the same fee structure applies.

Conditions for Participation

- An applicant must submit, by the specified deadline, a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, and the company's primary market objectives, in order to facilitate evaluation of the application and

appropriate matching with potential business partners.

- Each applicant must also certify that the company meets Departmental guidelines for participation. A company's products or services should be either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation: Selection will be based on the following criteria, listed in decreasing order of importance:

- Suitability of the company's products or services in Vietnam
- Applicant's potential for business in Vietnam, including likelihood of exports resulting from the mission and applicant's export experience
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

VII. Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<http://www.ita.doc.gov/doctm/tmcal.html>) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. The International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. Government agencies.

Recruitment for the Mission will begin immediately and close April 11, 2008. Applications are available on-line on the Vietnam Business Development Mission Web site at <http://www.export.gov/vietnammission>. They can also be obtained by contacting the Mission Project Officers listed below.

Applications received after April 11, 2008 will be considered only if space and scheduling constraints permit.

Contacts:

Sean Timmins, Commercial Service Trade Missions Program Tel: 202-482-1841/E-mail: vietnammission@mail.doc.gov

Karen Dubin, Commercial Service Trade Missions Program Tel: 202-482-3786/E-mail: vietnammission@mail.doc.gov

Sean Timmins,

Trade Mission Project Officer, Commercial Service Trade Missions Program, Office of Domestic Operations, U.S. Commercial Service, Washington, DC 20004, Tel: 202-482-1841/E-mail: vietnammission@mail.doc.gov.

[FR Doc. E8-4798 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-25-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Docket 13-2008]

Foreign-Trade Zone 104—Savannah, GA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting authority to expand FTZ 104 in the Savannah, Georgia, area, adjacent to the Savannah Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 25, 2008.

FTZ 104 was approved on April 18, 1984 (Board Order 256, 49 FR 17789, 4/25/84), and expanded on October 13, 1995 (Board Order 775, 60 FR 54469, 10/24/95), on December 18, 2001 (Board Order 1197, 66 FR 67183, 12/28/01), on May 15, 2006 (Board Order 1449, 71 FR 29613, 5/23/06), and on May 18, 2007 (Board Order 1512, 72 FR 31050, 6/5/07).

The zone project currently consists of the following sites in the Savannah area: *Site 1* (32 acres)—within the 3,400-acre Savannah International Airport, Savannah; *Site 2* (1,075 acres)—includes the 849-acre Garden City (Containerport) Terminal, 2 Main Street, Chatham, and the 226-acre Ocean Terminal, 950 West River Street, Savannah; *Site 2A* (1 acre, 43,560 sq. ft.)—located at 730 King George Boulevard, Savannah; *Site 3* (1,820 acres)—Crossroads Business Center, Interstate 95 and Godley Road, Chatham County; *Site 4* (1,353 acres)—SPA Industrial Park, located one mile east of the Interstate 95/U.S. 80 interchange, Chatham County; *Site 5* (24 acres)—within the 94-acre Savannah International Trade and Convention Center, One International Drive, Savannah; *Site 6* (1,182 acres)—

Mulberry Grove site, Interstate 95 and State Highway 21, Savannah; *Site 7* (1,592 acres, 3 parcels)—within a 2,140-acre portion of the Tradeport Business Center industrial park, 380 Sunbury Road, Midway; and, *Site 8* (98 acres, 3 parcels)—industrial park located on Tremont Road near the Interstate 16 and Georgia 516 interchange, Savannah (sunset 5/31/2012).

The applicant is requesting authority to expand the zone to include a site in Pooler (Chatham County): *Proposed Site 9* (62.9 acres)—Savannah Logistics Park at Morgan Center located at the intersection of S.H. Morgan Parkway and Pooler Parkway. The site is owned by Oakmont Morgan Center, LLC. The site will provide warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 12, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 27, 2008.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce, Export Assistance Center, 111 East Liberty Street, Suite 202, Savannah, GA 31401; and, the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

For further information, contact Camille Evans at Camille_Evans@ita.doc.gov or at (202) 482-2350.

Dated: February 25, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8-4835 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 14-2008]

Foreign-Trade Zone 231—Stockton, CA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Stockton Port District, grantee of FTZ 231, requesting authority to expand its zone to include an additional site in San Joaquin County, within the Sacramento Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 25, 2008.

FTZ 231 was approved on April 15, 1998 (Board Order 967, 63 FR 23719, 4/30/98), and expanded on November 9, 2006 (Board Order 1489, 71 FR 67329, 11/21/06). The general-purpose zone currently consists of the following sites: *Site 1* (600 acres)—within the Port of Stockton complex on the Stockton Deepwater Ship Channel; *Site 2* (1,433 acres)—Rough and Ready Island on the Stockton Deepwater Ship Channel; *Site 3* (1,453 acres)—located within the Stockton Metropolitan Airport; *Site 4* (67 acres)—within the 72-acre ProLogis Park Tracy I, located at Grant Line Road and Paradise Avenue, Tracy; *Site 5* (168 acres)—ProLogis Park Tracy II, 1941 North Christmas Road, Tracy; *Site 6* (77 acres)—within the 600-acre ProLogis Park Patterson Pass, 25882 South Corporate Court, Tracy; *Site 7* (106 acres)—ProLogis Park Duck Creek, 4720 East Farmington, Stockton.

The applicant is now requesting authority to expand the zone to include an additional site in San Joaquin County: *Proposed Site 8* (468 acres)—within the 474-acre Opus Logistics Center—Stockton, located at 5959 Arch Road in Stockton. The site is owned by the Opus West Corporation. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 12, 2008. Rebuttal

comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 27, 2008.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Export Assistance Center, 1410 Ethan Way, Sacramento, California 95825; and, the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

For further information, contact Camille Evans at Camille_Evans@ita.doc.gov or at (202) 482-2350.

Dated: February 25, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8-4840 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 15-2008]

Foreign-Trade Zone 122—Corpus Christi, TX; Application for Subzone; Baker Hughes, Inc. (Barite Grinding and Milling); Corpus Christi, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of Foreign-Trade Zone (FTZ) 122, requesting special-purpose subzone status for the barite grinding and milling facility of Baker Hughes, Inc. (Baker Hughes) located in Corpus Christi, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed by the Board on February 25, 2008.

The Baker Hughes facility (11 acres, 12 employees) is located at 322 Manning Road, in Corpus Christi, within the Corpus Christi Customs and Border Protection port of entry. The facility is used for manufacturing, warehousing and distribution activities related to the processing of raw barite (HTSUS 2511.10.50) into ground barite (HTSUS 2511.10.10) (up to 350,000 tons annually). Ground barite is used in the production of drilling fluids (drilling mud) and various specialty chemicals for use by the oil and natural gas exploration industry. Baker Hughes sources the majority of its raw

barite from abroad. The duty rate on the raw barite is \$1.25 per metric ton.

This application requests authority for Baker Hughes to conduct the activity under FTZ procedures, which would exempt the company from Customs duty payments on the imported barite used in export production. Less than one percent of production is exported. On domestic sales, the company could choose the lower duty rate (duty-free) for the imported raw barite used in manufacturing that applies to the finished product. The majority of FTZ-related savings will come from the elimination of the duty on the finished product. Baker Hughes will also realize additional savings on the elimination of duties on materials that become scrap/waste during manufacturing. The application indicates that the FTZ-related savings would improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is May 12, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period May 27, 2008.

A copy of the application and accompanying exhibits will be available at each of the following addresses: the Port of Corpus Christi Authority, 222 Power Street, Corpus Christi, TX 78403; and, Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC, 20230. For further information contact Christopher Kemp at christopher_kemp@ita.doc.gov or (202) 482-0862.

Dated: February 25, 2008.

Andrew McGilvray,
Executive Secretary.

[FR Doc. E8-4834 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Dockets 34, 35 and 36-2006]

Foreign-Trade Zone 93—Raleigh/Durham, NC; Foreign-Trade Zone 123—Denver, CO; Foreign-Trade Zone 153—San Diego, CA; Withdrawal of Requests for Subzone Status

Notice is hereby given of the withdrawal of the applications requesting special-purpose subzone status on behalf of QUALCOMM Incorporated. The applications were filed on August 15, 2006 (71 FR 48534-48536, 8/21/2006).

The withdrawal was requested because of changed circumstances, and the cases have been closed without prejudice.

Dated: March 4, 2008.

Andrew McGilvray,
Executive Secretary.

[FR Doc. E8-4841 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-405-803]

Purified Carboxymethylcellulose from Finland: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: (March 11, 2008.)

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-1121 and (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, on August 24, 2007, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 48613, August 24, 2007. The review covers the period July 1, 2006, through June 30, 2007. The preliminary results for these administrative reviews are currently due no later than April 1, 2008.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245 day time period for the preliminary results to 365 days.

The Department has determined it is not practicable to complete this review within the statutory time limit because we require additional time to conduct a sales below-cost investigation in this administrative review and to collect and analyze other information needed for our preliminary results. Accordingly, the Department is extending the time limits for completion of the preliminary results of this administrative review until no later than July 30, 2008, which is 365 days from the last day of the anniversary month of these orders. We intend to issue the final results in this review no later than 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: March 4, 2008.

Stephen Claeys,
Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-4833 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-401-806

Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On September 7, 2007, the Department of Commerce published the preliminary results of the 2005-2006 administrative review of the antidumping duty order on stainless steel wire rod from Sweden. The review covers one manufacturer/exporter, Fagersta Stainless AB (FSAB), and its affiliates AB Sandvik Materials Technology and Kanthal AB. The period of review (POR) is September 1, 2005, through August 31, 2006.

Based on our analysis of the comments received, we have made one change to the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: March 11, 2008.

FOR FURTHER INFORMATION CONTACT:

Brian C. Smith or Gemal Brangman, 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) 482-1766 or (202) 482-3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

The administrative review covers one manufacturer/exporter: FSAB and its affiliates AB Sandvik Materials Technology and Kanthal AB.¹ The period of review is September 1, 2005, through August 31, 2006.

On September 7, 2007, the Department of Commerce (the Department) published the preliminary results of this administrative review of the antidumping duty order on stainless steel wire rod from Sweden. *See Stainless Steel Wire Rod from Sweden: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 51411 (September 7, 2007). We invited interested parties to comment on the preliminary results of review.

FSAB filed its case brief on October 9, 2007, and the petitioners² filed their rebuttal brief on October 15, 2007. As no party requested a hearing, the Department did not hold a hearing in this review.

On December 11, 2007, we extended the time limit for the final results in this review until March 5, 2008. *See Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from Sweden*, 72 FR 71359 (December 17, 2007).

We have conducted this administrative review in accordance

with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

For purposes of this order, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter.

Certain stainless steel grades are excluded from the scope of the order. SF20T and K-M35FL are excluded. The following proprietary grades of Kanthal AB are also excluded: Kanthal A-1, Kanthal AF, Kanthal A, Kanthal D, Kanthal DT, Alkrothal 14, Alkrothal 720, and Nikrothal 40. The chemical makeup for the excluded grades is as follows:

SF20T	
Carbon	0.05 max
Manganese	2.00 max
Phosphorous	0.05 max
Sulfur	0.15 max
Silicon	1.00 max
Chromium	19.00/21.00
Molybdenum	1.50/2.50
Lead	added (0.10/0.30)
Tellurium	added (0.03 min)

K-M35FL	
Carbon	0.015 max
Silicon	0.70/1.00
Manganese	0.40 max
Phosphorous	0.04 max
Sulfur	0.03 max
Nickel	0.30 max
Chromium	12.50/14.00
Lead	0.10/0.30
Aluminum	0.20/0.35

Kanthal A-1	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.40 max
Aluminum	5.30 min, 6.30 max
Iron	balance
Chromium	20.50 min, 23.50 max

Kanthal AF	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.40 max
Chromium	20.50 min, 23.50 max
Aluminum	4.80 min, 5.80 max
Iron	balance

Kanthal A	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.50 max
Chromium	20.50 min, 23.50 max
Aluminum	4.80 min, 5.80 max
Iron	balance

Kanthal D	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.50 max
Chromium	20.50 min, 23.50 max
Aluminum	4.30 min, 5.30 max
Iron	balance

Kanthal DT	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.50 max
Chromium	20.50 min, 23.50 max
Aluminum	4.60 min, 5.60 max
Iron	balance

Alkrothal 14	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.50 max
Chromium	14.00 min, 16.00 max
Aluminum	3.80 min, 4.80 max
Iron	balance

Alkrothal 720	
Carbon	0.08 max
Silicon	0.70 max
Manganese	0.70 max
Chromium	12.00 min, 14.00 max
Aluminum	3.50 min, 4.50 max
Iron	balance

Nikrothal 40	
Carbon	0.10 max
Silicon	1.60 min, 2.50 max
Manganese	1.00 max
Chromium	18.00 min, 21.00 max
Nickel	34.00 min, 37.00 max
Iron	balance

¹ In the preliminary results of this review, we determined it appropriate to treat FSAB and its affiliates, AB Sandvik Materials Technology and Kanthal AB, as one entity for margin calculation purposes because they met the regulatory criteria for collapsing affiliated producers/exporters. No party objected to this preliminary determination. Therefore, we have continued to treat these affiliated companies as one entity in the final results.

² The petitioners are the following companies: Carpenter Technology Corporation and Charter Specialty Steel.

The subject merchandise is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). 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 the case and rebuttal briefs submitted by the parties to this antidumping duty administrative review are addressed in the "Issues and Decision Memorandum" (*Decision Memo*) from Stephen J. Claey, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated March 5, 2008, which is hereby adopted by this notice. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. 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, room 1117 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes from the Preliminary Results

Based on the information submitted and our analysis of the comments received, we have made one change to the margin calculations for FSAB. Specifically, we corrected a clerical error by converting FSAB's constructed value costs from SEK/kg. to USD/lb. in the margin calculations. See Comment 2 of *Decision Memo* and March 5, 2008, Memorandum from Case Analyst to The File, entitled "Calculation Memorandum for the Final Results for Fagersta Stainless AB" for further details.

Final Results of Review

We determine that the following weighted-average margin percentage exists:

Manufacturer/exporter	Margin (percent)
Fagersta Stainless AB/AB Sandvik Materials Technology/Kanthal AB	20.34

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b). The Department will issue appropriate appraisal instructions for the company subject to this review directly to CBP 15 days after publication of these final results of review. In accordance with 19 CFR 351.106(c), we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., is not less than 0.50 percent *ad valorem*). For entries of subject merchandise made by FSAB on behalf of its U.S. affiliate, FSI, we calculated the importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. However, for shipments of subject merchandise produced by FSAB and imported by its U.S. affiliate, SMT U.S., where the respondent was unable to provide the entered value, we calculated the importer-specific per-unit duty assessment rate by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the per-unit duty assessment rate is *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated an importer-specific *ad valorem* ratio based on the estimated entered value.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these final results of review for which the reviewed company did not know the merchandise it sold to the 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 "All Others" rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

Pursuant to the *Implementation of the Findings of the WTO Panel in US--Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261, 25263 (May 4, 2007), effective April 23, 2007, we have revoked the antidumping duty order on SSWR from Sweden and accordingly have instructed CBP to discontinue collection of cash deposits of antidumping duties on entries of the subject merchandise.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221.

Dated: March 5, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix--List of Issues

Comment 1: Whether to Include Electroslag Refining As a Model-Matching Criterion

Comment 2: Converting the Unit of Measure of FSAB's Constructed Value Data

[FR Doc. E8-4824 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-801]

Ball Bearings and Parts Thereof from Germany: Initiation of Antidumping Duty Changed-Circumstances Review

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

SUMMARY: In response to a request for a changed-circumstances review from myonic GmbH and pursuant to section 751(b) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce is initiating a changed-circumstances review of the antidumping duty order on ball bearings and parts thereof from Germany.

EFFECTIVE DATE: March 11, 2008.

FOR FURTHER INFORMATION CONTACT:

Janis Kalnins at (202) 482-1392 or Richard Rimlinger at (202) 482-4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Background**

The Department of Commerce (the Department) published antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings and parts thereof from Germany on May 15, 1989. See *Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany*, 54 FR 20900 (May 15, 1989). The orders on cylindrical roller bearings and spherical plain bearings and parts thereof from Germany have been revoked. See *Revocation of Antidumping Duty Orders on Certain Bearings From Hungary, Japan, Romania, Sweden, France, Germany, Italy, and the United Kingdom*, 65 FR 42667 (July 11, 2000).

On January 31, 2008, myonic GmbH (myonic) informed the Department that Miniaturkugellager Gesellschaft mit beschränkter Haftung (MKL) had changed its name to myonic and that all stock of myonic was purchased by myonic Holding GmbH. Myonic has asked the Department to initiate and conduct a changed-circumstances review to confirm that myonic is the successor-in-interest to MKL for purposes of determining antidumping-duty liabilities subject to this order. We have not received any comments on myonic's request.

Scope of the Order

The products covered by this order are ball bearings and parts thereof. These products include all bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following *Harmonized Tariff Schedules of the United States* (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

As a result of recent changes to the Harmonized Tariff Schedule, effective February 2, 2007, the subject merchandise is also classifiable under the following additional HTS item numbers: 8708.30.5090, 8708.40.7500, 8708.50.7900, 8708.50.8900, 8708.50.9150, 8708.50.9900, 8708.80.6590, 8708.94.75, 8708.95.2000, 8708.99.5500, 8708.99.68, and 8708.99.8180.

Initiation of Changed-Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department will conduct a changed-circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order.

As indicated in the Background section, we have received the information that MKL changed its name to myonic and that all stock of myonic was purchased by myonic Holding GmbH. The information submitted by myonic claiming that it is the successor-in-interest to MKL demonstrates changed circumstances sufficient to warrant such a review. See 19 CFR 351.216(d).

In a changed-circumstances review involving a successor-in-interest determination, the Department typically

examines several factors including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; (4) customer base. See *Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005). While no single factor or combination of factors will necessarily be dispositive, generally the Department will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company. See, e.g., *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006). Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash-deposit rate of its predecessor. See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3), the Department is initiating a changed-circumstances review to determine whether myonic is the successor-in-interest to MKL. Although myonic submitted documentation relating to its name and status change from MKL to myonic, it did not provide certain supporting documentation for the elements listed above. Accordingly, the Department does not consider the information sufficient to make a preliminary finding and has determined that it would be inappropriate to expedite this action by combining the preliminary results of review with this notice of initiation, as permitted under 19 CFR 351.221(c)(3)(ii). As a result, the Department is not issuing preliminary results for this changed-circumstances review at this time.

Therefore, in accordance with 19 CFR 351.221(b)(2) and (4) and 19 CFR 351.221(c)(3)(i), we will issue a questionnaire requesting factual information for the review and will publish a notice of preliminary results of the antidumping duty changed-circumstances review in the **Federal Register**. The notice will set forth the factual and legal conclusions upon which our preliminary results are based. Pursuant to 19 CFR 351.221(b)(4)(ii),

interested parties will have an opportunity to comment on the preliminary results of this review.

This notice of initiation is in accordance with section 751(b)(1) of the Act, 19 CFR 351.216(b) and (d), and 19 CFR 351.221(b)(1).

Dated: March 5, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-4827 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-046]

Polychloroprene Rubber From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Antidumping Duty Finding in Part

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

SUMMARY: On January 23, 2008, the Department of Commerce (the Department) received a request on behalf of the petitioner, DuPont Performance Elastomers L.L.C. (DPE)¹ for a changed circumstances review and a request to revoke, in part, the antidumping duty (AD) finding on certain polychloroprene rubber products from Japan.

EFFECTIVE DATE: March 11, 2008.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-3782.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1973, the Department of Treasury published in the **Federal Register** (38 FR 33593) the antidumping finding on polychloroprene rubber (PCR) from Japan. On January 23, 2008, DPE requested revocation in part of the AD finding with respect to solid polychloroprenes that are dipolymers of chloroprene and methacrylic acid having methacrylic acid comonomer content in the 1.0 percent to 5.0 percent range (this category does *not* include

aqueous chloroprene/methacrylic acid dipolymer dispersion products or solvent solutions of chloroprene/methacrylic acid dipolymers). In its January 23, 2008 submission, DPE stated that it no longer has any interest in antidumping relief from imports of such PCR with respect to the subject merchandise defined in the "Scope of the Finding" section below. Interested parties are invited to comment on these preliminary results.

Scope of the Finding

Imports covered by this finding are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS item numbers are provided for convenience and customs purposes. The Department's written description of the scope remains dispositive.

Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Antidumping Finding in Part

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the Act), the Department may revoke, in whole or in part, an antidumping finding based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Pursuant to section 782(h)(2) of the Act and 19 CFR 351.222(g), the Department will conduct a changed circumstances review under 19 CFR 351.216 and may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In this case, the Department finds that the information submitted by Petitioner provides sufficient evidence of changed circumstances to warrant a review. See 19 CFR 351.216(d). DPE is the sole petitioner and domestic producer of PCR, and therefore accounts for all of the production of the domestic like

product to which the order pertains.² In addition, DPE affirms that it is no longer interested in the inclusion of the above products within the scope of the antidumping findings. See DPE's January 23, 2008 submission at page 2. Therefore, in accordance with sections 751(b)(1) and 751(d)(1) of the Act, and 19 CFR 351.216 and 351.222(g), and based on the information provided by DPE, the Department is initiating a changed circumstances review of PCR from Japan to determine whether partial revocation of the AD finding is warranted with respect to the aforementioned certain PCR products from Japan. Furthermore, in accordance with 19 CFR 351.221(c)(3)(ii), we have determined that expedited action is warranted. Our decision to expedite this review stems from the fact that the sole petitioner and domestic producer of the subject merchandise, DPE, has requested expedited action. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results.

Based on the expression of no interest by the sole domestic producer, the Department has preliminarily determined that producers accounting for substantially all of the production of the domestic like product have no further interest in the continued application of the AD finding on PCR that is subject to this request. See section 782(h)(2) of the Act. Therefore, we are notifying the public of our intent to revoke, in part, the AD finding as it relates to imports of certain PCR products from Japan.

Accordingly, the Department intends to amend the scope of the finding on PCR from Japan to read as follows: Imports covered by this review are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS item numbers are provided for convenience and customs purposes. The Department's written description of the scope remains dispositive.

In addition, the following type of polychloroprene rubber is excluded from the scope of the finding: solid polychloroprenes that are dipolymers of chloroprene and methacrylic acid having

¹ DPE is the sole petitioner in this antidumping proceeding. See *Polychloroprene Rubber From Japan: Final Results of the Expedited Sunset Review of the Antidumping Finding*, 69 FR 64276 (November 4, 2004).

² DuPont has been the sole U.S. producer of polychloroprene rubber since 1998, when Bayer Group closed its polychloroprene rubber plant in Houston, Texas. See *Polychloroprene Rubber from Japan*, Inv. No. AA-1921-129 (Second Review), U.S. ITC Pub. 3786, at 4-5 (June 2005).

methacrylic acid comonomer content in the 1.0 percent to 5.0 percent range (this category does *not* include aqueous chloroprene/methacrylic acid dipolymer dispersion products or solvent solutions of chloroprene/methacrylic acid dipolymers).

Public Comment

Interest parties are invited to comment on these preliminary results. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties. 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, which must be limited to issues raised in such briefs or comments, may be filed no later than 5 days after the time limit for filing the case brief. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Also, any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Persons interested in attending a hearing should contact the Department for the date and time of the hearing.

Consistent with section 351.216(e) of the Department's regulations, the Department will issue the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments, no later than 270 days the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. *See* 19 CFR 351.216(e). If final partial revocation occurs, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of the notice of revocation and to release any cash deposit or bond. *See* 19 CFR 351.222(g)(4). The current requirement for a cash deposit of estimated AD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This notice of initiation is in accordance with sections 751(b)(1) and 777 of the Act and 19 CFR 351.216, 351.221, and 351.222.

Dated: March 6, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. 08-1003 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability for Public Comment on the Draft Joint Subcommittee on Ocean Science and Technology Interagency Working Group on Ocean Observation Integrated Ocean Observing System Strategic Plan

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The NOAA Integrated Ocean Observing System Program (IOOS) Program publishes this notice on behalf of the Joint Subcommittee on Ocean Science and Technology—Interagency Working Group on Ocean Observation's (JSOST-IWGOO) to announce a 30-day public comment period for the five-year IOOS Strategic Plan. This five-year vision for IOOS will be used by the IWGOO to build an implementation plan that will describe in more detail the roles and responsibilities that will be undertaken by the interagency members.

DATES: Written, faxed or emailed comments must be received no later than 5 p.m. eastern standard time on April 4, 2008.

ADDRESSES: The JSOST-IWGOO IOOS Strategic Plan is available for review from Ocean.US Web site URL: <http://www.ocean.us/IWGOO/SPcomments>. For the public unable to access the internet, printed copies can be requested by contacting the IWGOO Executive Secretariat at the address below. The public is encouraged to submit comments electronically to strategic_comments@IWGOO.net. If you are unable to access the internet, comments may be submitted via fax or regular mail. Faxed comments should be sent to 301-427-2073. Comments may be submitted in writing to the NOAA IOOS Program Office, *Attention:* IWGOO Executive Secretariat, 1100 Wayne Avenue, Suite 1225, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: For further information about this notice,

please contact the IWGOO Executive Secretariat, *telephone:* 301-427-2439; E-mail: strategic_comments@IWGOO.net.

SUPPLEMENTARY INFORMATION: The U.S. Ocean Action Plan (2004), in response to strong recommendations of the U.S. Commission on Ocean Policy (2004) and building on and complementing the work of past and current interagency efforts to build IOOS, establishes a comprehensive mechanism in the executive branch for coordinating ocean policy at the federal level. The Committee on Ocean Policy (COP) was established by Executive Order 13366 to function as this coordinating mechanism. To support its efforts, the COP established the Interagency Committee on Ocean Science and Resource Management Integration (ICOSRMI) to facilitate and coordinate, recommend, and identify opportunities on a broad array of ocean science issues. In April 2007, ICOSRMI and the National Ocean Research Leadership Council (NORLC) established by the National Ocean Partnership Program (10 U.S.C. 7981-7983) jointly agreed that future actions taken by ICOSRMI related to the NOPP would be deemed actions of the NORLC for the purpose of maintaining interagency progress. This relationship combines the executive-legislative set of mechanisms to provide the essential organizational structures including coordination of IOOS issues at all levels of the federal government.

The IWGOO, established under JSOST to lead the interagency planning and coordination of ocean observing activities including IOOS, is represented by seventeen federal agencies, which NOAA was identified as the lead federal agency by the Administration. As defined in the charter, the purpose of the IWGOO is to advise and assist JSOST on matters relating to all aspects of ocean observations within the scope of an end-to-end concept of ocean observations.

The IWGOO IOOS Strategic Plan is a five-year vision for the IOOS that builds on the IOOS development plan, addendum, and its predecessor documents for the U.S. IOOS that characterizes the areas of highest priority for the U.S. contribution to the Global Earth Observation System of Systems (GEOSS).

John H. Dunnigan,
Chair, Interagency Working Group on Ocean Observations; Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E8-4693 Filed 3-10-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE**Department of the Army****Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) for the Renewal of the Special Use Permit (SUP) for Military Activities on the De Soto National Forest and Implementation of Installation Mission Support Activities at Camp Shelby, MI**

AGENCY: National Guard Bureau (NGB), Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: The NGB has decided to proceed with the proposed action to renew the SUP for a 20-year period and construct, operate, and maintain the projects listed in the final EIS including the reconfiguration of the Combined Arms Area.

ADDRESSES: To request a copy of the ROD please contact Mr. Tim Powell, Public Affairs Officer, Joint Forces Headquarters, Mississippi National Guard, P.O. Box 5027, Jackson, Mississippi, 39296-5027.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Powell at (601) 313-6349. The alternate point of contact for this action is Major Robert A. Lemire, at (601) 313-6228.

SUPPLEMENTARY INFORMATION: Consistent with the decision to renew the SUP and proceed with the proposed action and analyses described in the FEIS, the NGB shall: (1) Commit personnel and resources to implement the "Preferred Alternative," (2) commit personnel and resources to support operations and training at Camp Shelby, (3) maintain operations, training and facilities at Camp Shelby, and (4) implement and program funds for the appropriate monitoring and mitigation measures associated with the approved activities as discussed in the FEIS.

The development and implementation of the SUP Operating Plan; identification and implementation of appropriate best management practices and mitigation measures; and continued monitoring of key environmental resources will be accomplished.

The present monitoring and mitigation procedures that are employed at Camp Shelby and will continue to be employed to address potential adverse effects from construction, operation, and maintenance of the proposed new projects include a wide range of environmental resource areas, but primarily focus on protection and conservation of proposed, endangered, threatened, and sensitive (PETS) species (particularly the gopher tortoise due to its prevalence on Camp Shelby),

protection of soil, minimization of erosion/sedimentation, and protection of wetlands. For this SUP renewal proposal, the Mississippi National Guard (MSNG) has revised and updated the mitigation and monitoring program set forth in the 1994 SUP EIS and ROD. The MSNG's commitment to monitor is intended to ensure that the impacts from military training are periodically assessed and that adverse impacts are addressed/mitigated once identified. Since 1994, the MSNG has conducted this monitoring in cooperation with the Forest Service on all lands within the boundaries of Camp Shelby.

As part of the development of the proposed renewed SUP, the continuation of this monitoring is required to ensure that the lands used by Camp Shelby meet the federal requirement for multiple use and that the lands are managed to ensure that they are protected from irreversible harm for future generations. Monitoring will be conducted on 13 program areas: noise, PETS species, biodiversity, wildlife, streams, wetlands, soil loss, timber, vegetation, invasive species, wildfire, road closure for military training, and cultural resources. Information included for these monitoring program areas include delineation of the data requirements, sample information, frequency of collection and reporting, responsible party, basis for action, and actions required if the impact threshold occurs.

The ROD can be found at: http://www.ngms.state.ms.us/env/Natural%20Resources/nat_resources_06.htm.

Dated: February 28, 2008.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. E8-4535 Filed 3-10-08; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION**Notice of Proposed Information Collection Requests**

AGENCY: Department of Education.

SUMMARY: The Department requests a one-year extension of the deadline established by OMB for the 2008-2009 Free Application for Federal Student Aid (FAFSA). OMB established the current deadline, June 30, 2008, following the approval of an Emergency Clearance of the 2008-2009 FAFSA. (For chronology of events, see below). This request does not include any changes to the functionality or format of the 2008-2009 FAFSA. The public is

welcome to comment on this request, but it should be noted that the 2008-2009 FAFSA is currently approved and NO CHANGES are proposed herein. Subsequent to the approval of this "Extension of a Currently Approved Collection", the Department will issue a full collection clearance package for the 2009-2010 FAFSA. Unlike this request, the Department anticipates that the 2009-2010 FAFSA will include substantive changes and the public is encouraged to read and comment, as desired, on that package when it is issued in the summer of 2008.

FAFSA Clearance Chronology**(1) Change Worksheet:**

Reason for Submission: No material change was anticipated for the 2008-2009 FAFSA at the time of filing.

Request for "No Material or Nonsubstantive Change to a Currently Approved Collection"—6/22/07.

OMB Approval: 7/06/07.

Expiration date established by OMB: 9/30/09.

(2) Emergency Clearance:

Reason for Submission: Addition of TEACH grant question to the 2008-2009 FAFSA on the Web.

Request for "Revision of a Currently Approved Collection"—12/20/07

OMB Approval: 12/27/07.

Expiration date established by OMB: 6/30/08.

Because the Emergency Clearance expires on 6/30/08, the Department is submitting a full clearance packet for the 2008-2009 FAFSA to OMB and requesting an extension of approval through 6/30/09.

(3) Extension of a Currently Approved Collection:

Reason for Submission: The Emergency Clearance expires in six months.

Request for "Regular Review."

OMB Approval: TBD.

Expiration date established by OMB: TBD.

The Secretary of Education requests comments on the Free Application for Federal Student Aid (FAFSA) that the Secretary proposes to use for the 2008-2009 award year. The FAFSA is completed by students and their families and the information submitted on the form is used to determine the students' eligibility and financial need for financial aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA Programs).

DATES: Interested persons are invited to submit comments on or before May 12, 2008.

ADDRESSES: Comments may be submitted electronically through e-mail to FAFSA_Comments@ed.gov. Requests for copies of the proposed information collection requests may be accessed from <http://edicsweb.ed.gov> by selecting the "Browse Pending Collections" link and by clicking on link number 3585. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. In addition, interested persons can access this document on the Internet:

- (1) Go to IFAP at <http://ifap.ed.gov>.
- (2) Scroll down to "Publications."
- (3) Click on "FAFSAs and Renewal FAFSAs."
- (4) Click on "By 2007-2008 Award Year."
- (5) Click on "Draft FAFSA Form/Instructions."

Please note that the free Adobe Acrobat Reader software, version 4.0 or greater, is necessary to view this file. This software can be downloaded for free from Adobe's Web site: <http://www.adobe.com>.

FOR FURTHER INFORMATION CONTACT: Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary is publishing this request for comment under the Provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under procedure for obtaining approval from OMB, ED must first obtain public comment of the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**.

In addition to comments requested above, to accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 5, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 16,787,640.

Burden Hours: 8,054,467.

Abstract: Section 483 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary, "in cooperation with agencies and organizations involved in providing student financial assistance," to "produce, distribute and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance..." under the title IV, HEA Programs. This form is the FAFSA. In addition, section 483 authorizes the Secretary to include non-financial data items that assist States in awarding State student financial assistance.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3585. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to (202) 245-6623. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to the e-mail address ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

[FR Doc. E8-4778 Filed 3-10-08; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 10, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to oir_submission@omb.eop.gov or via fax to (202) 395-6974. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound Evaluation"]". Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 5, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program Unpaid Refund Loan Discharge Application.

Frequency: On Occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 400.

Burden Hours: 200.

Abstract: This form serves as the means by which eligible borrowers in the Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program apply for discharge of the portion of a loan that a school failed to return to the loan holder in accordance with federal regulations.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3546. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E8-4779 Filed 3-10-08; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[OE Docket No. EA-336]

Application to Export Electric Energy; ConocoPhillips Company

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: ConocoPhillips Company (CoP) has applied for authority to transmit electric energy from the United

States to Mexico pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or requests to intervene must be submitted on or before April 10, 2008.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-586-5860).

FOR FURTHER INFORMATION CONTACT:

Ellen Russell (Program Office) 202-586-9624 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On January 23, 2008, DOE received an application from CoP for authority to transmit electric energy from the United States to Mexico as a power marketer. CoP has requested an electricity export authorization with a 5-year term. CoP does not own any electric transmission facilities nor does it hold a franchised service area. CoP and certain of its affiliates own electric generating facilities, primarily cogeneration facilities located at CoP-owned refinery facilities. The electric energy which CoP proposes to export to Mexico would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States.

In its application, CoP notified DOE that it had been exporting electric energy to Mexico since September 2004 without authorization under section 202(e) of the FPA. CoP asserts that during the time it was making these exports, it was unaware of the requirement to obtain prior authorization from DOE. CoP claims that it first became aware of this requirement in connection with an internal review of its reporting and filing obligations in January 2008. CoP ceased all further electricity exports as of January 16, 2008, and commits to not engage in any further electricity exports pending approval of the application in this proceeding. In connection with its application, CoP submitted a notarized affidavit from its Vice President attesting to these facts and commitment.

CoP will arrange for the delivery of exports to Mexico over the international

transmission facilities owned by AEP Texas Central, El Paso Electric Company, Central Power & Light Company, San Diego Gas & Electric Company, Sharyland Utilities, and Comision Federal de Electricidad, the national electric utility of Mexico. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by CoP was previously authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

DOE expects exporters of electric energy to obtain the necessary authorization from DOE to export electricity and to abide by the terms and conditions established for such export in the Orders issued by DOE, including any term limit for the authorization and the requirement to create and preserve full and complete records and file quarterly reports. Failure to first obtain an Order authorizing the export of electricity, or continuing to export after the expiration of such an Order, may result in a denial of authorization to export in the future and subject the exporter to sanctions and penalties under the FPA. DOE also expects transmitting utilities owning border facilities and entities charged with the operational control of those border facilities, such as Independent System Operators or Regional Transmission Organizations, to verify that companies seeking to schedule an electricity export have the requisite authority from DOE to export such power.

DOE notes that CoP shall have no authority to export electricity to Mexico unless and until DOE grants such authorization at the conclusion of this proceeding.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each comment, petition, and protest should be filed with DOE on or before the dates listed above.

All filings in this proceeding should be clearly marked with Docket No. EA-336. Additional copies are to be filed directly with Michael Passaretti, Manager, Regulatory Monitoring & Reporting, ConocoPhillips Company, 600 North Dairy Ashford, Houston, TX 77079 AND Daniel E. Frank, Sutherland Asbill & Brennan LLP, 1275

Pennsylvania Avenue, NW.,
Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at <http://oe.energy.gov/permits.htm>, or by e-mailing Odessa Hopkins at Odessa.hopkins@hq.doe.gov.

Issued in Washington, DC, on March 5, 2008.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E8-4842 Filed 3-10-08; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of Meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 18, 2008, at the headquarters of the IEA in Paris, France, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market on March 18, and a meeting of SEQ on March 18-19.

DATES: Meeting Dates: March 18-19, 2008.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Diana D. Clark, Assistant General for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-3417.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on March 18, 2008, beginning at 9 a.m. and continuing at 3:45 p.m. and on March

19 at 9 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on March 18, and a meeting of the SEQ on March 18-19. The IAB will also hold a preparatory meeting among company representatives at the same location from 8:15 a.m. to 9 a.m. on March 19. The agenda for this preparatory meeting is a review of the agenda of the SEQ meeting.

The agenda of the joint SEQ/SOM meeting on March 18 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda.
2. Minutes of Previous Meeting.
3. Oil Market Update.
4. World Energy Outlook 2008: Topics about the Oil Market.
5. Report on the IEA/Mexico Oil and Gas Seminar.
6. Natural Market Update.
7. Developments in Member Countries.
8. Report on Workshop on Speculation.
9. The Need for Weekly Stock Data.
10. Middle East Supply.
11. Information about Upcoming 11th IEF Meeting.
12. Nigeria.
13. Any Other Business.

The agenda of the SEQ meeting on March 18 and 19, 2008, is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda.
2. Approval of the Summary Record of the 121st Meeting.
3. Status of Compliance with IEP Stockholding Commitments.
4. Program of Work 2009-2010.
5. Emergency Response Review Program.
- Coordination of IDR and ERR
- Draft Questionnaire New ERR Cycle
6. Policy and Other Developments in Member Countries.
- Turkey
- Poland
7. Emergency Response Exercise 4.
- Recapitulation of country responses Exercise in Capitals
- Country shares in the ICRP
- Conversion factors
- Data report (QuE)
- Design Group—Presentation of the next Disruption Simulation Exercise
- Schedule for June 2008 Activities
8. Report on Current Activities of the IAB.

9. Other Emergency Response Activities.

—Biofuels

10. Activities with International Organizations and Non-Member Countries.

—NATO

—EU

—China

—India

—Thailand

11. Other Business.

—Tentative Dates of Next SEQ Meetings

—June 23-25, 2008

12. Documents for Information.

—Emergency Reserve Situation of IEA

Member Countries on October 1, 2007

—Base Period Final Consumption: 4Q 2006-3Q 2007

—Monthly Oil Statistics: December 2007

—Update of Emergency Contacts List

—Emergency Reserve Situation of IEA Member Countries on January 1, 2008

—Emergency Reserve Situation of IEA Candidate Countries on January 1, 2008

—Base Period Final Consumption: 1Q 2007-4Q 2007

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, March 5, 2008.

Diana D. Clark,

Assistant General Counsel for International and National Security Programs.

[FR Doc. E8-4831 Filed 3-10-08; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Docket No. 2007-OE-01, Mid-Atlantic Area National Interest Electric Transmission Corridor; Docket No. 2007-OE-02, Southwest Area National Interest Electric Transmission Corridor]

National Electric Transmission Congestion Report; Order Denying Rehearing

AGENCY: Department of Energy.

ACTION: Order Denying Rehearing.

SUMMARY: On October 5, 2007, the Department of Energy (Department or DOE) published in the **Federal Register** a National Electric Transmission Congestion Report and Order (Report and Order) in the above dockets in which it designated the Mid-Atlantic Area and the Southwest Area National Interest Electric Transmission Corridors (National Corridors) (72 FR 56992). Numerous parties in each of the above named dockets filed timely applications for rehearing of DOE's Report and Order. Some parties also requested that the National Corridor designations be stayed. On December 3, 2007, in order to afford additional time for consideration of all of the matters raised in the timely-filed rehearing applications, the Department granted rehearing of DOE's Report and Order in both of the dockets for the limited purpose of further consideration (72 FR 69202, December 7, 2007). As discussed in greater detail in this Order Denying Rehearing (Order), the Department has completed its consideration of the issues raised in the rehearing applications, as well as in the requests for stay, and has concluded that they are without merit. Therefore, the rehearing applications and requests for stay in both dockets are denied.

DATES: This Order denying rehearing applications and requests for stay is effective March 11, 2008. The National Corridor designations were effective October 5, 2007, and will remain in effect until October 7, 2019, unless the Department rescinds or renews the designations after notice and opportunity for comment.

FOR FURTHER INFORMATION CONTACT: For technical information, David Meyer, DOE Office of Electricity Delivery and Energy Reliability, (202) 586-1411, david.meyer@hq.doe.gov. For legal information, Warren Belmar, DOE Office of the General Counsel, (202) 586-6758, warren.belmar@hq.doe.gov, or Lot Cooke, DOE Office of the General Counsel, (202) 586-0503, lot.cooke@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A detailed discussion of the statutory framework and procedural background underlying the Department's authority to designate National Corridors and its rationale for doing so is contained in the Report and Order. Most of the issues raised in the rehearing applications were raised earlier, prior to the issuance of the Report and Order, in comments filed in response to: (1) DOE's August 8, 2006, National Electric Transmission Congestion Study (the Congestion

Study); and (2) DOE's May 7, 2007, **Federal Register** notice (May 7 notice) which presented and solicited comment on the draft designations of the Mid-Atlantic Area and the Southwest Area National Corridors (72 FR 25838). The Department addressed these issues in either or both the May 7 notice and the Report and Order, and those two documents, as well as the Congestion Study, are incorporated by reference in this Order. While DOE has considered all of the arguments advanced in the timely filed rehearing applications, this Order will briefly address only some of these issues again, it will not readdress at length determinations the Department made in the Report and Order for which no new or substantive argument has been advanced in rehearing. The Department's decisions on the designation of the two National Corridors are based on the totality of the record in these proceedings, including the Congestion Study, the May 7 notice, all public comments submitted to DOE, the Report and Order, and this Order.

A. Statutory Framework

Section 1221(a) of the Energy Policy Act of 2005 (EPA) (Pub. L. 109-58) added a new section 216 to the Federal Power Act (FPA) (16 U.S.C. 824p). FPA section 216(a) requires the Secretary of Energy (Secretary)¹ to conduct a national study of electric transmission congestion within one year from the date of enactment of EPA (i.e., by August 2006) and every three years thereafter. FPA section 216(a)(2) provides "interested parties" with an opportunity to offer "alternatives and recommendations." 16 U.S.C. 824p(a)(2). Following consideration of such alternatives and recommendations, the Secretary is required to issue a report, based on the study, "which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor." FPA section 216(a)(2), 16 U.S.C. 824p(a)(2).

FPA section 216(a) assigns to the Department the role of identifying transmission congestion and constraints, and the geographic areas in which these problems exist. FPA section 216(a) does not, however, shift to the Department the roles exercised by electric system planners or siting authorities in evaluating solutions to congestion and constraint problems. A National Corridor designation is not a determination that transmission must,

or even should, be built, nor is it a determination that any particular transmission facility is needed or where any such facility should be located. Transmission expansion is but one possible solution to a congestion or constraint problem, and other potential solutions include increased demand response, improved energy efficiency, deployment of advanced energy technologies, and siting of additional generation, including distributed generation, close to load centers.

B. Procedural Background

In accordance with the requirement in FPA section 216(a)(1), the Department issued the Congestion Study on August 8, 2006 and requested comments. The Congestion Study gathered historical congestion data obtained from existing studies prepared by the regional reliability councils, RTOs and ISOs, and regional planning groups. The Congestion Study also modeled future congestion: the years 2008 and 2011 for the Eastern Interconnection, and the years 2008 and 2015 for the Western Interconnection. Based on the historical data and the modeling results, the Congestion Study identified and classified the most significant congestion areas in the country. Two "Critical Congestion Areas" (i.e., areas where the current and/or projected effects of congestion are especially broad and severe) were identified: the Atlantic coastal area from metropolitan New York through northern Virginia (the Mid-Atlantic Critical Congestion Area); and southern California (the Southern California Critical Congestion Area).

In the May 7 notice, the Department noted that the term "constraints or congestion that adversely affects consumers" as used in FPA section 216(a)(2) is ambiguous and interpreted the phrase to include congestion that is persistent. Thus, the Department stated that FPA section 216(a) gives the Secretary the discretion to designate a National Corridor upon a showing of persistent congestion because persistent congestion has adverse effects on consumers. Further, the Department stated that it would use a source-and-sink approach to delineate the boundaries of the Mid-Atlantic Area National Corridor and the Southwest Area National Corridor.²

With regard to the Mid-Atlantic Critical Congestion Area, the Department noted that the Congestion Study had identified this area based on

¹ This Order uses the terms "Secretary," "Department," and "DOE" interchangeably.

² "Source" refers to an area of existing or potential future generation, and "sink" refers to an area of consumer demand or "load."

evidence of historical, persistent congestion caused by numerous well-known constraints that are projected to continue and worsen unless addressed through remedial measures. The Department determined that if action is not taken to address congestion, consumers in the Baltimore-Washington-Northern Virginia area, the northern New Jersey area, and southeastern New York face threats to the reliability of their electricity supply. The Department also documented that congestion exacerbates the degree to which consumers in the eastern portion of the PJM Interconnection and in southeastern New York rely on generation fueled by natural gas and oil. Finally, the Department described the importance of the Mid-Atlantic Critical Congestion Area to the security and economic health of the Nation as a whole. Thus, the Department stated its belief that economic development, reliability, supply diversity and energy independence, and national defense and homeland security considerations warrant exercise of the Secretary's discretion to designate a National Corridor for the Mid-Atlantic Critical Congestion Area.³

With regard to the Southern California Critical Congestion Area, in the May 7 notice the Department noted that the Congestion Study had identified evidence of historical, persistent congestion caused by numerous well-known constraints that are projected to continue and worsen unless addressed through remedial measures. The Department determined that if action is not taken to address congestion, consumers in the Southern California Critical Congestion Area face threats to the reliability of their electricity supply. The Department also described the importance of the Southern California Critical Congestion Area to the security and economic health of the Nation as a whole. Thus, the Department stated its belief that reliability, supply diversity, and national defense and homeland security considerations warrant exercise of the Secretary's discretion to designate a National Corridor for the Southern California Critical Congestion Area.

To delineate the boundaries of both the Mid-Atlantic Area National Corridor and the Southwest Area National Corridor, the Department identified source areas that would enable a range of generation options and then identified the counties linking the identified source areas with the respective sink areas, *i.e.*, the Mid-Atlantic Critical Congestion Area and

the Southern California Critical Congestion Area. The Department stated that both the Mid-Atlantic Area National Corridor and the Southwest Area National Corridor would have 12-year terms, and explained why that was an appropriate length of time for a designation.⁴

The Department provided a sixty day period to intervene and file comments on the draft National Corridor designations announced in the May 7 notice. In addition, DOE held a series of public meetings on the draft designations during the public comment period.⁵ All timely filed comments, as well as written comments submitted at the public meetings and transcripts of those public meetings, were posted on the Department's website in order to facilitate public review. In addition, the Department consulted with each of the States within the two draft National Corridors⁶, as well as with the Regional Entities (as provided in FPA section 216(a)(3)) that have authority within the draft National Corridors.⁷

II. Mid-Atlantic Area National Corridor (Docket No. 2007-OE-01) Rehearing Issues

A. Procedural Matters

1. Rehearing Applications and Requests for Stays

The May 7 notice provided instructions on how to provide comments and how to become a party to the proceeding in this docket. Consistent with those instructions, the Department granted party status in this docket to all persons who either: (1) Filed comments electronically at <http://nietc.anl.gov> on or before July 6, 2007; (2) mailed written comments marked "Attn: Docket No. 2007-OE-01" to the Office of Electricity Delivery and Energy Reliability, OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, that were received on or before July 6, 2007; or (3) hand-delivered written comments marked "Attn: Docket No. 2007-OE-01" at one of the public meetings. Ordering Paragraph E of the Report and Order provided instructions on how to apply for rehearing. Consistent with those instructions, the Department received numerous applications for rehearing from parties in this docket.⁸ In addition,

DOE received filings which did not meet the requirements of FPA section 313 (16 U.S.C. 825I) to seek rehearing, either because they were filed by non-parties or were filed late.⁹ The Department has reviewed and considered all of the submissions, treating as comments the submissions from filers who do not qualify as applicants for rehearing. However, those commenters will not be able to seek review of the Report and Order and this Order in a United States Court of Appeal. *See*, FPA section 313. For convenience, when referring to a filing in this Order, the term "rehearing application" will be used whether the filing is an actual application for rehearing or a comment.

On November 5, 2007, the State of New York (New York) submitted a timely application for rehearing; however, it had not filed comments on the May 7 notice and therefore was not a party to the proceeding. New York asserted that "to the extent New York has previously commented on the Designation Order through its political subdivisions including, but not limited to, the New York State Department of Environmental Conservation (NYSDEC) and the New York State Public Service Commission (NYSPSC), the State has the right to petition for rehearing."¹⁰ In the alternative, New York moved to intervene late. In addition, on January 31, 2008, New York made another submission, which it styled as a supplement to its November 5 filing, in which it raised issues concerning CRA International, Inc. (CRA), a contractor used by the Department to assist in the preparation of the Congestion Study.

A person seeking to intervene in a proceeding out of time, particularly after the Department has issued a final order, must provide good justification for being permitted to do so. In this instance, given New York's stated interest in the designation of the Mid-Atlantic Area National Corridor, the fact that subordinate state agencies already are parties in the proceeding, and the fact that New York's initial petition raises no issues that were not previously raised by New York state agencies, DOE believes there is good cause to grant New York's motion and that other parties will not be prejudiced thereby. Therefore, DOE grants New York's late-filed petition to intervene and will accept for filing New York's November 5, 2007 request for rehearing. However, FPA section 313 requires that applications for rehearing shall be made

⁴ Section VI of the May 7 notice, 72 FR 25851.

⁵ Arlington, VA, May 15, 2007; San Diego, CA, May 17, 2007; New York City, NY, May 23, 2007; Rochester, NY, June 12, 2007; Pittsburgh, PA, June 13, 2007; Las Vegas, NV, June 20, 2007; and Phoenix, AZ, June 21, 2007.

⁶ *See* 72 FR 56996, footnote 18.

⁷ *Id.*, footnote 19.

⁸ Listed in Appendix A of this order.

⁹ Those filings and their status are listed in Appendix B of this order.

¹⁰ New York Motion for Intervention at 1.

³ Section VIII.C of the May 7 notice, 72 FR 25884-25896.

within thirty days after the issuance of an order. The Report and Order was issued on October 5, 2007, and rehearing requests therefore must have been filed by November 5, 2007. Moreover, the Report and Order specified that DOE would not accept responses to requests for rehearing. Therefore, New York's January 31, 2008, supplemental filing is rejected.¹¹

DOE received requests that the Department stay the designation of the Mid-Atlantic Area National Corridor from the Southern Environmental Law Center (SELC), the Pennsylvania Public Utility Commission (PaPUC), in a joint filing from the Wilderness Society, the Natural Resources Defense Council, Inc., Forest Guardians, Western Resource Advocates, and the California Wilderness Coalition (Wilderness Society *et al.*), and New York.¹² The Department has decided to deny the applications for rehearing as discussed in this Order and affirm the determination to designate the Mid-Atlantic Area National Corridor. Therefore, the Department also denies the requests for a stay, which would delay the effectiveness of the designation, on the grounds that they fail to satisfy the burden necessary for DOE to grant such relief.

2. Authority For, and Fairness of, the Designation Process

Summary of Rehearing Arguments

As in the comments filed in response to the May 7 notice, many rehearing applications argued that the Department had failed to provide adequate opportunity for the public to review and comment on the National Corridors.¹³ For example, Greg Bandel stated that the Department "did not include adequate input from affected states, counties, local governments, communities, and affected home owners."¹⁴ Communities Against Regional Interconnection (CARI) contended that the designation of the Mid-Atlantic Area National Corridor is a "rule" subject to the notice and comment rulemaking requirements in the Administrative Procedure Act (APA) (5 U.S.C. 553) and that DOE failed to follow rulemaking procedures.¹⁵ New York contended that

FPA section 216(a) does not authorize DOE to issue either an adjudicatory order or a rule that is binding on the affected States.¹⁶ It further argued that neither FPA section 309 (16 U.S.C. 824h) nor the APA authorizes DOE to issue a designation order. Moreover, New York argued that in issuing the Report and Order, DOE failed to follow the APA's adjudicatory hearing requirements in 5 U.S.C. 554, 556–557, as well as DOE's adjudicatory hearing regulations. New York also stated that if the Report and Order is viewed as a rule, DOE did not comply with the procedural requirements for rulemaking in the APA (5 U.S.C. 553). Finally, New York asserted that DOE improperly relied on a report prepared by CRA and failed to consider certain relevant economic factors in issuing the Report and Order. Various other rehearing applications asserted that the Department did not conduct a wholly independent study of congestion, improperly relying on data and analyses from utilities or others with a vested interest in transmission expansion.¹⁷

DOE Response

In the Report and Order, the Department concluded that its process has been fair, open, and transparent, and that it has provided ample opportunity for public comment.¹⁸ In addition, DOE stated that the designation of National Corridors constitutes informal adjudication under the APA, and concluded that it "employed procedures that satisfy all applicable procedural requirements."¹⁹ Nothing in the requests for rehearing persuades the Department that its conclusions and decisions on these issues, and discussed in the Report and Order, were incorrect.

Although some issues regarding the Department's authority and choice of procedures were raised in comments on the draft designations in the May 7 notice and were addressed in the Report and Order, other issues were raised for the first time in rehearing applications. The Department addresses these issues here.

As stated in the Report and Order, the Department does not agree that its designation of a National Corridor is a "rule" subject to the APA's informal rulemaking provisions (5 U.S.C. 553).²⁰ Instead, the designation of National Corridors is properly viewed as informal

adjudication under the APA. The term "informal adjudication" is used to describe the residual category of agency actions that are not rulemakings and that need not be conducted through formal adjudication.²¹ FPA section 216(a) does not require DOE to issue a rule in order to designate a National Corridor. It also does not require a decision on the record after opportunity for an agency hearing, which would make the APA's formal adjudication provisions applicable.²² The fact that designation orders under FPA section 216(a) have future effect, as noted by CARI, does not preclude DOE from treating this action as informal adjudication. The APA defines "adjudication" as "an agency process for the formulation of an order."²³ An order is "the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing."²⁴ The Department's Report and Order designating National Corridors is the final disposition in declaratory form of how DOE chooses to address the results of the study it must conduct under FPA section 216(a) and, therefore, is properly characterized as an informal adjudication. The Supreme Court has long held that absent a statutory or other legal requirement providing otherwise, whether to use rulemaking or adjudication in a particular matter is the administrative agency's decision to make.²⁵

The Department rejects New York's argument that FPA section 216(a) does not authorize issuance of either an adjudicatory order or a rule that has binding effect on the affected States. New York is correct that the statute unambiguously requires DOE to conduct a study of electric transmission congestion and issue a report based on the study.²⁶ FPA section 216(a)(2) provides that after conducting the study required by FPA section 216(a)(1), and after considering alternatives and recommendations from interested parties, including affected States, the Secretary "shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints

¹¹ The January 31, 2008, submittal also inquired about a Freedom of Information Act (FOIA) request made to DOE by New York. That FOIA request will be addressed by the Department separately outside of this proceeding.

¹² New York's request for a stay was made in its untimely January 31, 2008, submission.

¹³ See, e.g., the applications for rehearing of Faith Bjalobok, New York, and the Commonwealth of Virginia.

¹⁴ Application for rehearing of Greg Bandel at 1.

¹⁵ CARI rehearing application, at 4–6.

¹⁶ New York rehearing application, at 6–9.

¹⁷ See, e.g., rehearing applications of Jeffery Brown, Rick Layton, and CARI.

¹⁸ 72 FR 57001.

¹⁹ *Id.*

²⁰ *Id.*

²¹ See A Guide to Federal Agency Adjudication 146 (Michael Asimow, ed., 2003) (co-authored book published by the American Bar Association's Section on Administrative Law & Regulatory Policy).

²² 5 U.S.C. 554(a).

²³ 5 U.S.C. 551(7).

²⁴ 5 U.S.C. 551(6) (emphasis added).

²⁵ *NLRB v. Bell Aerospace Co.*, 416 U.S. 267 (1974), affirming the principle enunciated in *SEC v. Chenery Corp.*, 332 U.S. 194 (1947).

²⁶ New York rehearing application at 6.

or congestion that adversely affects consumers as a national interest electric transmission corridor.”²⁷ Thus, while not mandating that the Secretary designate National Corridors, the statute clearly authorizes the Secretary to designate such corridors. Designation of National Corridors may occur in the statutorily-required report, and designation may affect the procedural rights of potential applicants for transmission line siting within the corridor and of citizens in the affected States.

Under the APA, agency actions are either rules or orders.²⁸ As previously explained, the designation of National Corridors is properly characterized as informal adjudication, and issuance of the Report and Order designating the Mid-Atlantic Area National Corridor clearly is authorized by FPA section 216(a). While FPA section 216(a) provides ample authority for issuance of the designation order, FPA section 309 provides additional authority. FPA section 309 provides that the Federal Power Commission, whose powers (in relevant part here) were transferred to DOE in the Department of Energy Organization Act (42 U.S.C. 7151(b)), “shall have the power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act.”²⁹

New York acknowledges that the Department has latitude and discretion in performing its regulatory functions pursuant to FPA section 309. However, New York argues that neither such latitude nor discretion apply to the designation of National Corridors because “[t]he APA, 5 U.S.C. 554, 556 and 557, does not authorize DOE’s issuance of the Designation Order, nor the ‘informal’ process DOE followed in issuing it.”³⁰ As explained previously, the Department concludes there is ample authority for issuance of the Report and Order, and FPA section 216(a) does not require use of formal adjudication for the designation of corridors.

The APA does not prescribe procedures that agencies must follow when engaging in informal adjudication. Subject to any constraints imposed by due process, or by particular statutes or regulations, agencies are free to establish procedures for informal

adjudication.³¹ The Department has provided ample opportunities for public comment, both written and oral, in carrying out its responsibilities under FPA section 216(a). The Department solicited comments on the Congestion Study through a notice of availability and request for comments published in the **Federal Register** on August 8, 2006. (71 FR 45047). The Department allowed 60 days for submission of public comments on the Congestion Study. After considering the comments received on the Congestion Study, the Department published the May 7 notice in the **Federal Register** and provided a 60-day public comment opportunity on the draft National Corridor designations. The May 7 notice stated that public comments would be considered prior to DOE issuing the report required by FPA section 216(a)(2). The Department provided this comment opportunity even though FPA section 216(a) does not require DOE to solicit comments on the report or on any proposed or draft National Corridor designations. Section 216(a) only requires that DOE solicit comments on the study, upon which the report and any designation of National Corridors are based.

The May 7 notice announced the locations of three public meetings, which were held in Arlington, Virginia, New York, New York, and San Diego, California. Thus, two hearings were initially held in areas that would be affected by the draft Mid-Atlantic Area National Corridor and one in an area that would be affected by the draft Southwest Area National Corridor. On June 7, 2007, the Department announced four additional public meetings, two in the area of the Mid-Atlantic Area National Corridor (in Rochester, New York, and Pittsburgh, Pennsylvania) and two in the area of the Southwest Area National Corridor (in Las Vegas, Nevada, and Phoenix, Arizona). 72 FR 31571. Thus, a total of seven public meetings on the draft National Corridors were held in the areas that potentially would be affected by the draft National Corridors in order to obtain public views, data and arguments. Additional information about the Department’s process for receiving comments on the Congestion Study and the National Corridors is contained in the Report and Order. The Report and Order sets forth the Department’s detailed responses to written and oral comments received from members of the public and an

explanation of the bases for the National Corridor designations.

Finally, DOE disagrees with New York’s comments that DOE improperly relied on a report prepared for the Department by its contractor CRA, and failed to consider certain relevant economic factors in designating the National Corridors.³² CRA produced its report under contract to and with the supervision of the Department, and as such the CRA report is a Departmental document. For that reason and because the document was properly a part of the record for this proceeding, DOE could properly rely on it in producing the Congestion Study. Moreover, as stated in the Report and Order:

The Department did not rely solely on data and information from any single source or category of sources. While conducting the Congestion Study, the Department contacted a wide range of stakeholders for publicly available and current data, and then, through the notice of inquiry and technical conference, opened the call for data to all entities. The Department then performed its own review of the information provided. All interested persons had an opportunity to comment on the May 7 notice, and the Department has considered all timely filed comments.³³

3. Adequacy of State Consultation Summary of Rehearing Arguments

Several rehearing applications asserted that the Department failed to consult adequately with affected States. For example, the Commonwealth of Virginia stated that “(d)espite the clear and unambiguous statutory consultation language, the DOE’s August 2006 congestion study, upon which DOE’s NIETC designation is based, was conducted without any consultation with the Commonwealth of Virginia.”³⁴ New York stated that “DOE was required to formally consult with the affected States in the proposed designated Corridor”³⁵ and “DOE failed to initially create a formal consultation process in which the States could

³² In a related matter, New York filed a FOIA request for a Cambridge Energy Research Associates (CERA) Study titled “Grounded in Reality: Eastern Interconnection” which is listing number 7 in Appendix I of the Congestion Study. As was noted in that Appendix I, the CERA study was reviewed by CRA in preparing its report to DOE but was not used by CRA in its report or by DOE in the preparation of the Congestion Study because it was considered confidential. Therefore, the CERA study is not in the record of this proceeding and was not used as a basis for the Department’s decisions. In addition, CERA and CRA International, Inc. are separate, non-affiliated companies.

³³ 71 FR 57001.

³⁴ Virginia rehearing applications at 4.

³⁵ New York rehearing application at 13.

²⁷ 16 U.S.C. 824p(a)(2) (emphasis added).

²⁸ Attorney General’s Manual on the Administrative Procedure Act at 15 (1947).

²⁹ 16 U.S.C. 825h.

³⁰ New York rehearing application at 7.

³¹ See *Pension Benefit Guaranty Corp. v. LTV Corp.*, 496 U.S. 633, 655–56 (1990); see also A Guide to Federal Agency Adjudication, *supra* footnote 19 at 147–48.

pursue a dialogue about the Corridor.”³⁶

DOE Response

The Department fully addressed these arguments in the Report and Order and the applications for rehearing raise no new issues or arguments. As stated in the Report and Order:

* * * the Department believes that its consultation with States, as documented in the May 7 notice, satisfied the requirements of FPA section 216(a)(1). Moreover, in recognition of the importance of National Corridor designation to States, upon issuance of the May 7 notice, the Department engaged in additional consultation with each of the States within the draft National Corridors and the District of Columbia, as documented in Section I.C above.³⁷

The Report and Order documents the Department’s extensive consultations with the affected States. The Department finds the arguments that DOE inadequately consulted with the States to be without merit. Indeed, DOE provided even more consultation and comment opportunities to the States and to the public than is called for by FPA section 216(a).

B. Adequacy of Showing of Congestion That Adversely Affects Consumers

Summary of Rehearing Arguments

Many rehearing applications argued that the Department had failed to show the presence of congestion adversely affecting consumers. The rehearing applications took particular issue with the Department’s position that it has the discretion to designate the Mid-Atlantic Area National Corridor upon a showing of the existence of persistent congestion, without further demonstration of adverse effects on consumers. For example, NYPSC stated that “DOE’s assertion that it would be too daunting to document all adverse effects of persistent congestion does not excuse DOE’s decision to adopt a definition of ‘congestion that adversely affects consumers’ that does not identify the costs such congestion imposes on consumers or the costs of relieving such congestion.”³⁸ Toll Bros. Inc. (Toll Bros.) asserted that, when identifying congestion, it is impermissible for DOE to consider economic factors, and the only determination DOE should make is whether the existing transmission is in compliance with applicable reliability standards.³⁹

DOE Response

The Department affirms the conclusion in the Report and Order that it has sufficiently demonstrated and found the existence of congestion that adversely affects consumers in the Mid-Atlantic Area National Corridor.⁴⁰ In the Report and Order, referencing the Congestion Study, the Department defined “congestion” as the condition that occurs when transmission capacity is not sufficient to enable safe delivery of all scheduled or desired wholesale electricity transfers simultaneously.⁴¹ Under this definition, any congestion prevents some users of the transmission grid from completing their preferred power transactions. In the Report and Order, the Department concluded, based on its technical expertise and policy judgment, that it is reasonable to interpret the phrase “congestion that adversely affects consumers” to include congestion that is persistent.⁴² Thus, the Secretary appropriately exercised his authority and discretion to designate the Mid-Atlantic Area National Corridor after finding the existence of persistent congestion.

DOE disagrees with the assertion by Toll Bros. that DOE cannot consider economic factors in identifying congestion that adversely affects consumers. Toll Bros. offers no persuasive rationale for its preferred interpretation of the term “congestion.” Instead, Toll Bros.’ view—that FPA Section 216’s references to transmission congestion should be understood as pertaining only to reliability—is inconsistent with industry usage. Having identified congestion in the Congestion Study, DOE can and did properly look to the FPA section 216(a)(4) considerations, including those dealing with the economic impacts of congestion, in making both its determination that the congestion adversely affects consumers and that a National Corridor should be designated.

C. Boundaries of the Mid-Atlantic Area National Corridor

Summary of Rehearing Arguments

Numerous rehearing applications reiterated arguments made in response to the May 7 notice that the Mid-Atlantic Area National Corridor is impermissibly broad. For example, Willard R. Burns stated that “(d)esignation of an area spanning the entire Mid-Atlantic region—and 52 of 67 counties in Pennsylvania—exceeds the Secretary’s authority, and renders

the definition of ‘corridor’ so broad as to be meaningless.” The PaPUC refers to the designation as a “Transmission Park” rather than a corridor. SELC reiterated its position that the definition employed by DOE in establishing corridors under EPC Act section 368 should also apply to National Corridors designated under FPA section 216(a).

New York objected to the Department’s use of the source-and-sink approach, saying that that “approach is contrary to the express language of section 216(a), which directs DOE to include in the Corridor only those geographic areas found to be experiencing constraints that adversely affect consumers in the retail consumer end markets or ‘sinks’ of congestion.”⁴³ The Pennsylvania Department of Environmental Protection (PaDEP) asserted that the source-and-sink approach is inconsistent with the express language of FPA section 216 which only supports a project-based approach to designating corridors.⁴⁴

DOE Response

The Department’s approach to defining the boundaries of the Mid-Atlantic Area National Corridor is consistent with EPC Act and with FPA section 216(a). FPA section 216(a) does not limit the shape, proportion, or size of a National Corridor. In addition, as was stated in detail in the Report and Order, the Department concludes that the differences in the language and intent of FPA section 216(a) and EPC Act section 368, underscore the appropriateness of the Department’s overall approach to establishing the boundaries of the Mid-Atlantic Area National Corridor. As stated in the Report and Order:

The Department does not think it is reasonable, as some commenters have suggested, to interpret the term “geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers” as restricting a National Corridor designation to the specific confines of the load being adversely affected by congestion or the constrained transmission lines causing such congestion. FPA section 216(a)(4)(A) and (B) both refer to the Department considering economic factors in “the corridor, or the end markets served by the corridor.” Since the end markets served by a National Corridor are the load centers where consumers are being adversely affected by congestion, this language indicates that Congress envisioned designation of National Corridors that extend beyond the location of the adversely affected consumers.⁴⁵

³⁶ Id.

³⁷ 72 FR 57002.

³⁸ NYPSC rehearing application at 7 (emphasis in the original).

³⁹ Toll Bros. rehearing application at 7–8.

⁴⁰ 72 FR 57003.

⁴¹ Id.

⁴² 72 FR 57004.

⁴³ New York rehearing application at 11.

⁴⁴ PaDEP application for rehearing at 4.

⁴⁵ 72 FR 57007.

Moreover, as explained in detail in the May 7 notice and in the Report and Order, DOE believes the source-and-sink approach to designating National Corridor boundaries is a permissible and reasonable way of delineating the corridors, and that using county boundaries is a reasonable means of establishing precise and readily identifiable limits for corridors. PaDEP's assertion that the only valid approach to designating National Corridors is a project-based approach is not consistent with the statutory design of FPA section 216. That provision authorizes the Department to exercise its discretion in determining whether and where to designate a geographic area as a National Corridor, and vests in FERC the authority to issue one or more permits for the construction or modification of electric transmission facilities in a National Corridor. It would make little sense to interpret FPA section 216 as requiring DOE to designate narrowly-defined corridors that, in effect, would constitute siting decisions by DOE, since any siting authority to be exercised under FPA section 216 is plainly the responsibility of FERC, not DOE. Thus, if Congress had intended a National Corridor designation to pertain only to a specific electric transmission project, and had intended DOE to select specific routings, it seems likely that Congress would have authorized DOE to both make the National Corridor designation and issue the construction or modification permit. Congress did not do so. Finally, the inclusion of the phrase "1 or more permits" in FPA section 216(b) would be rendered largely meaningless, if, as PaDEP asserts, DOE could only designate corridors using a project-based approach. As explained at length in the Report and Order, DOE's source-and-sink approach is entirely appropriate and reflects the designation of a National Corridor in a geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers.

D. Consideration of Alternatives Under FPA Section 216(a)(2) Summary of Rehearing Arguments

Several rehearing applications argued that the Department should evaluate non-transmission solutions to congestion before designating the Mid-Atlantic Area National Corridor. Maryland Governor Martin O'Malley stated that DOE failed to properly consider non-transmission solutions to

congestion and constraint issues.⁴⁶ Willard R. Burns said that "the Department has not considered alternative solutions for constraints and congestion other than corridor designations and new high-voltage lines."⁴⁷ The State of New Jersey said the designation of a National Corridor gives transmission facilities a huge competitive advantage, and therefore DOE must consider non-transmission alternatives prior to making a designation.⁴⁸ SELC stated that "energy efficiency, conservation, distributed generation, demand-side management, and other tools are alternatives not just to transmission construction, but also to corridor designation itself."⁴⁹

CARI asserted that the designation of the Mid-Atlantic Area National Corridor was not warranted because New York already has mechanisms in place to relieve transmission congestion and that there "is no legal or institutional barrier to the licensing or construction of new or modified transmission facilities under state law."⁵⁰ Furthermore, CARI asserted that DOE should consider the potential effects of the New York Independent System Operator's August 2006 Comprehensive Reliability Plan, New York Governor Eliot Spitzer's comprehensive plan for reducing electricity use, and New York City Mayor Michael Bloomberg's energy plan for reducing projected demand for energy. Toll Bros. stated that DOE should have considered alternatives such as Virginia's 2007 Energy Plan prior to issuing the Congestion Study.

DOE Response

The Department concludes that consideration of non-transmission solutions to the congestion problems facing the Mid-Atlantic Critical Congestion Area is neither required nor necessary as a precondition to designating the Mid-Atlantic Area National Corridor. As stated in the Report and Order:

The very structure of FPA section 216 indicates that the Department's role is limited to the identification of congestion and constraint problems and the geographic areas in which these problems exist, and does not extend to the functions of electric system planners or siting authorities in evaluating solutions to congestion and constraint problems. Even the statutory requirement to consider alternatives is not couched in terms of an independent analysis of a reasonable range of alternatives, as one

would expect if Congress had intended the Department to analyze and select a solution, but rather refers merely to the Department considering those alternatives and recommendations offered by interested parties. The Department believes that expanding its role to include analyzing and making findings on competing remedies for congestion could supplant, duplicate, or conflict with the traditional roles of States and other entities.⁵¹

The CARI and Toll Bros. rehearing applications suggested that prior to making a determination on whether to designate a National Corridor the Department needs to examine in detail the feasibility, advantages, and disadvantages of all possible alternatives to building additional electric transmission facilities. Nothing in FPA section 216(a) requires DOE to do so. Nor is it clear why such examining would be helpful, much less necessary, for DOE when it decides whether and where there are problem transmission capacity constraints and congestion that adversely affects consumers and a National Corridor should be designated. The examination envisioned by CARI and Toll Bros. apparently would include reviewing the impacts of all regional, State and local energy plans to determine if the cumulative effects of the plans would provide alternatives to transmission that would obviate the need to designate a National Corridor. In order to make this examination, DOE presumably would need to review the underlying data, assumptions, and analyses in each plan and determine what the effects of the plans would be and whether those effects would be sufficient to eliminate the need to make a corridor designation. In other words, DOE would assume the role of electricity planning czar in all areas of the country experiencing constraints or congestion, ruling on the acceptability of the methodology and data used in the formulation of regional, State and local energy plans, and the adequacy and efficacy of each area's electricity planning, as part of DOE's National Corridor decision making process. FPA section 216(a) does not require the Department to play such a large and invasive role in electricity planning, nor does it require the Department to undertake this level of scrutiny before designation of a National Corridor. The Department has engaged in a searching review and analysis of reasonably available data and information, and has exercised its professional and technical judgment and expertise in making determinations based on that information. It is not

⁴⁶ Governor Martin O'Malley rehearing application at 1.

⁴⁷ Willard Burns rehearing application at 1.

⁴⁸ State of New Jersey rehearing application at 6.

⁴⁹ SELC rehearing application at 33.

⁵⁰ CARI rehearing application at 14.

⁵¹ 72 FR 57010.

required to explore and examine a wide range of possible future actions by many persons or organizations before issuing a designation.

E. Whether DOE Should Exercise Its Discretion To Designate the Mid-Atlantic Area National Corridor

Summary of Rehearing Arguments

Many of the rehearing applications raised issues previously addressed in the Report and Order. For example, CARI and PaPUC asserted that the economic development, reliability, supply diversity, energy independence, and national defense and homeland security considerations contained in FPA section 216(a)(4) do not support designation of the Mid-Atlantic Area National Corridor.⁵² Other rehearing applications reiterated the argument that the Department should accord more deference to existing State and regional planning and siting processes and delay any designation of a Mid-Atlantic Area National Corridor unless and until it has become clear that a Federal siting forum is needed.

DOE Response

As the Department stated in the Report and Order:

The Department recognizes that FPA section 216 adopted a novel approach to addressing congestion problems, and that many commenters have grave concerns about the effects of this new approach. However, after careful consideration of these concerns, the Department concludes that designation of the draft Mid-Atlantic Area National Corridor is consistent with the intent of FPA section 216(a).⁵³

This is particularly so given the limited function that FPA section 216 assigns to DOE and which a designation is to accomplish—*i.e.*, the role of identifying transmission congestion and constraints, and the geographic area in which the problems exist. The Department also reaffirms its conclusions, as the May 7 notice documented, that economic development, reliability, supply diversity, energy independence, and national defense and homeland security considerations all warrant designation of the Mid-Atlantic Area National Corridor.⁵⁴

Finally, the Department notes that it strongly supports State and regional efforts to address collectively the congestion problems confronting the region, whether those efforts are focused on transmission solutions, non-

transmission solutions, or a combination of both, and the Department does not believe that designation of the Mid-Atlantic Area National Corridor necessarily will disrupt ongoing State or regional planning processes. Further, as stated in the May 7 notice and reiterated in the Report and Order, DOE does not believe that Congress envisioned the adoption of a wait-and-see approach to National Corridor designation. National Corridor designation provides, in a defined set of circumstances, a potential mechanism for analyzing the need for transmission from a national, rather than State or local, perspective.

III. Southwest Area National Corridor (Docket No. 2007–OE–02)

A. Procedural Matters

1. Rehearing Applications and Requests for Stay

The May 7 notice provided instructions on how to provide comments and how to become a party to the proceeding in this docket. Consistent with those instructions, the Department granted party status in this docket to all persons who either: 1) filed comments electronically at <http://nietc.anl.gov> on or before July 6, 2007; 2) mailed written comments marked “Attn: Docket No. 2007–OE–02” to the Office of Electricity Delivery and Energy Reliability, OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, that were received on or before July 6, 2007; or 3) hand-delivered written comments marked “Attn: Docket No. 2007–OE–02” at one of the public meetings. Ordering Paragraph E of the Report and Order provided instructions on how to apply for rehearing in this docket. Consistent with those instructions, the Department received, reviewed and considered all timely filed applications for rehearing from parties in this docket.⁵⁵

DOE received requests that the Department stay its Report and Order designating the Southwest Area National Corridor from the Arizona Corporation Commission (ACC), SELC, and the Wilderness Society *et al.* The Department has decided to deny the applications for rehearing as discussed in this Order and affirm the determination to designate the Southwest Area National Corridor. Therefore, the Department also denies the requests for a stay, which would delay the effectiveness of the designation, on the grounds that they fail to satisfy the burden necessary for DOE to grant such relief.

2. Adequacy of State Consultation

ACC asserted that DOE did not meet its statutory obligation to consult with affected States in making the determination to designate the Southwest Area National Corridor. ACC stated that while it appreciates the Department's consultations with the Governors of affected states, FPA section 216 requires consultation with State siting authorities.⁵⁶

DOE Response

FPA section 216(a)'s provision that DOE consult with affected States does not require it to consult with a particular State agency as opposed to the State's chief executive. In any case, as evidenced by its filings in this proceeding, ACC has been given the opportunity to participate in the Department's decision making process. As discussed in Section II.A.3 above, the Department's consultation with States, as documented in the May 7 notice and in the Report and Order, satisfied the requirements of FPA section 216(a)(1).

B. Adequacy of Showing of Congestion That Adversely Affects Consumers

Summary of Rehearing Arguments

Several rehearing applications argued that the Department improperly concluded that there was congestion adversely affecting consumers, which the applications assert is a prerequisite to designation of the Southwest Area National Corridor. Essentially, the submissions take issue with the Department's position that it has the discretion to designate the Southwest Area National Corridor upon a showing of the existence of persistent congestion without a further demonstration of adverse effects on consumers. For example, ACC stated that “not all congestion, even persistent congestion, requires a remedy.”⁵⁷ The California Public Utilities Commission (CPUC) reiterated its position that congestion and constraints do not, in and of themselves, adversely affect consumers, and that DOE must develop valid criteria for measuring congestion and transmission constraints and show how they impact consumers.⁵⁸ CPUC also questioned the Western Area Power Administration (WAPA) data on denial of transmission service applications cited in the May 7 notice.⁵⁹ The Imperial Irrigation District (IID) stated that DOE's designation is flawed

⁵² CARI rehearing application at 29.

⁵³ 72 FR 57012.

⁵⁴ See May 7 notice, Section VIII.C, 72 FR 25884 and FPA 216(a)(4), 16 U.S.C. 824p(a)(4).

⁵⁵ Listed in Appendix C of this order.

⁵⁶ ACC rehearing application at 8.

⁵⁷ ACC rehearing application at 12.

⁵⁸ CPUC rehearing application at 16.

⁵⁹ *Id.* at 15.

because it failed to demonstrate that consumers are adversely affected in each of the counties included in the Southwest Area National Corridor.⁶⁰

DOE Response

The Department has established a record and has found the existence of congestion that adversely affects consumers in the Southwest Area National Corridor. As discussed in Section II.B above, the Department concludes, based on its technical expertise and policy judgment, that it is reasonable to interpret the phrase “congestion that adversely affects consumers” to include congestion that is persistent. Thus, the Department believes that FPA section 216(a) gives the Secretary sufficient authority and discretion to designate the Southwest Area National Corridor upon a showing of the existence of persistent congestion. Whether this persistent congestion requires a “remedy”—i.e., construction of new facilities or any other action—is not a decision that FPA section 216(a) calls on DOE to make, nor does the designation of the Southwest Area National Corridor require DOE to make any such decision.

In response to CPUC’s questioning of the WAPA data, DOE addressed that issue in the Report and Order, saying that the WAPA data questioned by CPUC is but one category of data used in the May 7 notice to establish the presence of persistent congestion and noting that “if FERC jurisdiction under FPA section 216(b) were triggered, parties could raise any concerns they had about the contractual nature of the congestion.”⁶¹

Finally, regarding IID’s contention, the Department’s approach to delineating the Southwest Area National Corridor was designed to connect the sink area containing consumers adversely affected by congestion with a range of source areas separated from the identified sink area by the transmission constraints causing such congestion. Given the overall framework of FPA section 216 and the physical properties of the electric grid, the Department concludes that this approach is consistent with the statutory authorization in FPA 216(a) for DOE to designate as a National Corridor a “geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers.”

C. Boundaries of the Southwest Area National Corridor

Summary of Rehearing Arguments

Some of the rehearing applications reiterated arguments made in response to the May 7 notice that the Southwest Area National Corridor is impermissibly broad. CPUC opposes designation of a Southwest Area National Corridor that would include all of southern California, but supports designation of a National Corridor that is more narrowly targeted than the corridor DOE has designated, such as a National Corridor along the Arizona section of the proposed Devers-PaloVerde 2 route.⁶² CPUC also states that while the focus of FPA section 216(a) is on interstate transmission, more than 48,000 square miles of the Southwest Area National Corridor falls within California alone.⁶³ CPUC states that the prospect of Federal transmission siting over this in-State area effectively trumps California’s ability to establish and pursue its own energy goals.⁶⁴ The ACC argues that DOE’s source-and-sink approach is fundamentally flawed.⁶⁵

DOE Response

The Department concludes that its general approach to defining the boundaries of the Southwest Area National Corridor is consistent with the statute. As discussed in Section II.C above and in the Report and Order, the language of FPA section 216(a), which refers to designation of a “geographic area,” does not dictate any particular shape, proportion, or size for a National Corridor, and the Department’s approach to delineating right-of-way corridors under EPCA section 368 does not inform or constrain the delineation of National Corridors under FPA section 216(a). In addition, as explained in detail in the May 7 notice and the Report and Order, DOE continues to believe the source-and-sink approach to designating National Corridor boundaries is a permissible and reasonable way of delineating the boundaries of the corridors, and that using county boundaries is a reasonable means of providing the precise limits of National Corridors. The applications for rehearing have not persuaded DOE otherwise.

⁶² CPUC rehearing application at 20.

⁶³ Id. at 5.

⁶⁴ Id. at 29.

⁶⁵ ACC rehearing application at 14.

D. Consideration of Alternatives Under FPA Section 216(a)(2)

Summary of Rehearing Arguments

IID claimed that DOE refused to consider any non-transmission solutions to congestion, did not meaningfully analyze IID’s recommendation that DOE adopt a more reasonably-tailored corridor, or refrain from making a designation until FERC’s new regional transmission planning requirement is given a reasonable opportunity to work.⁶⁶

DOE Response

For the reasons set forth in Section II.D above and in the Report and Order, the Department concludes that consideration of non-transmission solutions to the congestion problems facing the Southern California Critical Congestion Area is neither required nor necessary as a precondition to designating the Southwest Area National Corridor. As stated in the Report and Order:

The very structure of FPA section 216 indicates that the Department’s role is limited to the identification of congestion and constraint problems and the geographic areas in which these problems exist, and does not extend to the functions of electric system planners or siting authorities in evaluating solutions to congestion and constraint problems. Even the statutory requirement to consider alternatives is not couched in terms of an independent analysis of a reasonable range of alternatives, as one would expect if Congress had intended the Department to analyze and select a solution, but rather refers merely to the Department considering those alternatives and recommendations offered by interested parties. The Department believes that expanding its role to include analyzing and making findings on competing remedies for congestion could supplant, duplicate, or conflict with the traditional roles of States and other entities.⁶⁷

In addition, as stated in section II.E above, while the Department strongly supports State and regional efforts to address collectively the congestion problems confronting the region, nothing in FPA section 216(a) requires DOE to adopt a wait-and-see approach to National Corridor designation, or to ensure that all other possible venues for identifying and addressing transmission capacity constraints and congestion have been exhausted before DOE designates a National corridor.

⁶⁶ IID rehearing application at 19.

⁶⁷ 72 FR 57010.

⁶⁰ IID rehearing application at 18.

⁶¹ 72 FR 57016.

G. Whether DOE Should Exercise Its Discretion To Designate the Southwest Area National Corridor

Summary of Rehearing Arguments

ACC stated that DOE failed to consider the costs of externalities, including but not limited to, State energy, regulatory and environmental policy choices when determining to designate the Southwest Area National Corridor.⁶⁸ Further, ACC reiterated comments it made in response to the May 7 notice that differences in locational marginal prices between California and Arizona “are appropriate if they reflect non-monetized externalities.”⁶⁹

DOE Response

The concerns expressed by ACC in its application for rehearing were addressed in the Report and Order. As stated there, the Department recognizes that FPA section 216 adopted a novel approach to addressing congestion problems, and that some commenters are concerned with this new approach. However, after careful consideration of these concerns, and after considering the entire record in this proceeding, the Department concluded that designation of the Southwest Area National Corridor is consistent with the intent of FPA section 216(a).⁷⁰ In addition, as stated in the Report and Order, “the Department’s designation of a Southwest Area National Corridor is not motivated by price differentials between California and Arizona.”⁷¹ As detailed in the Report and Order, the Department documented that congestion poses a threat to reliability of supply and limits supply diversity for the Southern California Critical Congestion Area consumers.⁷²

IV. NEPA, NHPA, and ESA

Several rehearing applications in both dockets reasserted arguments previously made in this proceeding that before designating any National Corridors, the Department must conduct reviews under the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA).⁷³ Most of these contentions were previously raised in comments filed in

response to the May 7 notice and a detailed discussion of those comments appears in Section IV of the Report and Order.⁷⁴ As stated in Section I of this Order, DOE will not readdress at length determinations on matters it made in the Report and Order for which no new argument has been advanced in rehearing that persuades the DOE to alter its decision. However, DOE does address below those rehearing applications that raised new approaches to NEPA, NHPA, and ESA arguments, or that suggest the need for further clarification.

A. Issues Discussed in the Report and Order

Summary of Rehearing Arguments

Many rehearing applications included arguments contending that designation of a National Corridor requires NEPA review: (1) Because designation is part of a continuing agency action constituting a new federal plan or program; (2) because it permits other parties to take action; (3) to discuss cumulative impacts from anticipated transmission development; or (4) to examine non-transmission solutions to the congestion identified in the Congestion Study. In addition, rehearing applications reasserted that the Department should have conducted reviews under the NHPA and ESA.

DOE Response

These rehearing applications raised no new arguments or perspectives that require further discussion or persuade the Department to alter the determinations made in the Report and Order. As stated in the Report and Order, section 102(2)(C) of NEPA requires that all Federal agencies include an Environmental Impact Statement (EIS) for “every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C). NEPA section 102(2)(C) ensures that Federal agencies provide full and fair discussion of significant environmental impacts and inform decision makers and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. NEPA review is designed to examine the foreseeable, measurable, and predictable consequences of a proposed Federal action; it is not intended to be used to forecast hypothetical or unknowable proposals or results.

⁷⁴ 72 FR 57021.

As described in Section IV(B)–(D) of the Report and Order, these National Corridor designations are not a precondition to siting transmission lines; nor are they part of a group of concerted agency actions to implement a plan or program for executing projects, such as siting transmission lines. These two corridors are not interconnected or related to each other; each corridor designation is separate and distinct in size and location. As specified by statute, the factors that FERC will consider in any decision to permit a transmission line are different from the factors that DOE considered in designating National Corridors. As such, the two corridor designations are unique, and FERC and the Department must take distinct actions to implement Section 216. DOE’s designation of National Corridors is not a part of the type of multi-agency program for which a programmatic EIS (PEIS) is required.

In addition, DOE does not know what the States’ or FERC’s response will be after the designation of the National Corridors at issue here, or whether energy planners and utilities will use transmission or non-transmission solutions to address transmission congestion or constraints that DOE has identified. Therefore, endeavoring to analyze hypothetical impacts from future potential transmission lines, including any cumulative impacts, is premature and speculative at this time. The designation of National Corridors only specifies geographic areas in which DOE has identified electric congestion or constraint problems; the designations have no environmental effect, and it would not serve NEPA’s purposes to analyze alternatives that would also not have impacts. Therefore, the Department concludes on rehearing that the National Corridor designations do not comprise an action subject to NEPA, NHPA, or ESA review.⁷⁵

B. New Issues and Issues Needing Further Clarification

Some rehearing applications raised new arguments with respect to NEPA, NHPA, and ESA review. These arguments do not change DOE’s ultimate determination that environmental and NHPA review is not required before the Department designates the two corridors at issue here. However, because they were not previously addressed, these new

⁷⁵ Nothing in this Order restricts the Department’s authority or ability to prepare a NEPA document for future corridor designations, pursuant to Section 216 of the Federal Power Act; nor does this Order limit the size or form of any such future corridor designations.

⁶⁸ ACC rehearing application at 12.

⁶⁹ Id. at 13.

⁷⁰ 72 FR 57019.

⁷¹ 72 FR 57020.

⁷² 72 FR 57016.

⁷³ See, e.g., rehearing applications of the Energy Conservation Council of PA, Mitchell S. Diamond (requesting a “comprehensive assessment of alternatives”), Jim Feeney, Michael B. Gerrard, New York, CARI, PaDEP, SELC, Toll Bros. and the Wilderness Society *et al.*

arguments, described below, warrant discussion.

1. National Corridor Designation Itself Impacts the Environment

Summary of Rehearing Arguments

Certain rehearing applications stated that NEPA review is required because the very act of designating National Corridors impacts the environment. For example, Mitchell S. Diamond stated that the Department's designation of a National Corridor alters the likely pattern of electricity development, impacting fuel use and air quality patterns.⁷⁶ PaDEP claimed that designation promotes transmission based solutions, which in turn, have environmental impacts.⁷⁷ SELC asserted that NEPA review cannot wait until the site-specific permitting stage of a particular transmission line because the designation is causing utilities to make investments in new transmission lines now. In addition, several of the rehearing applications suggest that the designation of National Corridors will inevitably result in State or Federal permitting, and the construction, of planned or proposed transmission lines and therefore the impacts of such projects should be reviewed at this time.

DOE Response

The Department does not agree that the very act of designating National Corridors impacts the environment. DOE agrees that the effect of a National Corridor designation is to delineate geographic areas within which, under certain circumstances, FERC may ultimately authorize the construction or modification of electric transmission facilities. However, the designations neither permit nor preclude the construction of any transmission projects (or, for that matter, any other type of energy-related project). DOE has no authority under FPA section 216 to site and authorize the construction of transmission facilities, and FERC's authority to approve transmission projects located within National Corridors is circumscribed by FPA section 216.⁷⁸ It is only if and when FERC issues a permit for a transmission line that there may be an environmental impact. Moreover, FERC regulations require the Commission to conduct a full NEPA review as part of its consideration of any permit application it accepts.⁷⁹ Therefore, no construction

permit will be issued under FPA section 216 without a full NEPA review having been conducted.

The Department also does not believe that the designation of National Corridors at issue here promotes transmission based solutions to the exclusion of non-transmission based solutions, or that the designations will necessarily lead to the development of transmission lines. As described in Section 1.A. of the Report and Order, FERC's discretion to issue permits for transmission facilities within National Corridors is dependent upon several factors, including the existence of a congestion problem and whether another response, such as a non-transmission solution, has resolved the problem or appears likely to do so. Therefore, it would be highly speculative for the Department to make assumptions about whether, when, or where FERC might permit transmission facilities. Although the Department understands that applications are pending before State authorities for new transmission facilities within the two National Corridors the Department has designated, the Department does not know how the States will act upon these applications, whether the sponsors of the these proposed facilities will seek a permit from FERC under FPA section 216, whether FERC will ever have jurisdiction to address these facilities even if the sponsors seek a FERC permit, or, if FERC does assert jurisdiction, how it would act upon the permit applications.

2. State Environmental Protection Statutes

Summary of Rehearing Arguments

In its application for rehearing, Toll Bros. asserted that the designation of National Corridors curtails a State's ability to issue conditional permits. Toll Bros. asserted that designating National Corridors encourages States to issue permits without conditions because FERC has jurisdiction to review permit applications if a State siting authority conditioned its approval of a transmission facility permit in an area designated as a National Corridor in such a manner that construction of the line "is not economically feasible."⁸⁰ Toll Bros. further asserted that FERC will not have authority to consider "state conservation statutes, state conservation easements, or local land use planning when approving or denying a permit application."⁸¹

DOE Response

The Department agrees that a National Corridor designation allows FERC, in limited circumstances and if all applicable requirements are satisfied, to issue construction permits for electric transmission facilities within the geographic area of a National Corridor. However, this does not mean that the designation itself causes any physical impacts or compels FERC to make decisions that would have environmental impacts. As stated earlier, the Department cannot foresee the proposed location of particular facilities that FERC may consider permitting, or whether or not those permits would be subject to conditions. Additionally, it would be pure speculation for the Department to attempt to assess whether FERC's standards for reviewing individual permit applications and permit terms would demand more or less environmental and other analysis than State standards or State permit terms. Nor can the Department make a reasoned assessment of whether any ultimate FERC permitting decision would be more or less environmentally protective than would have been a particular State's permitting decision. Hypothetical differences between FERC and the States, which might or might not lead to environmental impacts, do not constitute foreseeable impacts from the Department's designation of National Corridors such that DOE is required to conduct a NEPA analysis is required.

4. EPA Act Section 368

Summary of Rehearing Arguments

Certain rehearing applications, including that of SELC, stated that DOE should have prepared a PEIS because DOE and several other agencies have prepared a PEIS for the designation of corridors on Federal lands in eleven western States under EPCA section 368.

DOE Response

The Department explained in detail the differences between EPCA sections 368 and 1221 in Section IV.J of the Report and Order, and will not repeat that discussion here. Subsequent to the Department issuing the Report and Order, the Department and several other agencies issued the Draft PEIS for the Section 368 energy corridors. The Section 368 Draft PEIS clarified that the relevant federal agencies proposed designating the section 368 corridors with a defined width, length and centerline that the agencies would incorporate into land use plans. The agencies noted that the corridors would

⁷⁶ Mitchell S. Diamond rehearing application at 1.

⁷⁷ PaDEP rehearing application at 9.

⁷⁸ 16 U.S.C. 824p(b).

⁷⁹ See Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities, FERC Stats. and Regs. ¶ 31,234

⁸⁰ Toll Bros. rehearing application at 16.

⁸¹ Id.

represent the preferred location for future energy transportation projects and would encourage applicants to apply for permits in a narrow geographic area. Further, in determining where they propose to site the corridors, the agencies responsible for implementing Section 368 avoided areas where local land use planners from the Bureau of Land Management, the Forest Service, and the Department of Defense had identified incompatible land uses.⁸²

In contrast, the designation of National Corridors under FPA section 216 has no land use component. The designation relies on no determination of how suitable particular areas of land are for future transmission lines or any other use: If FERC considers a permit application under its FPA section 216 authority, it will make that kind of land use determination at that time. In addition, unlike the text of EAct section 368, FPA section 216 does not require the amendment of land use plans. As stated before, FPA section 216(a) merely authorizes the Department to designate as National Corridors geographic areas experiencing electricity congestion and constraints. As such, the designation has no environmental impacts.

5. DOE Should Have Invoked a Categorical Exclusion or Conducted an EA

Summary of Rehearing Arguments

Certain rehearing applications stated that DOE did not follow the proper NEPA process in designating National Corridors. For example, the Wilderness Society *et al.* asserted that DOE should have completed an Environmental Assessment (EA) and then issued a Finding of No Significant Impact (FONSI) before designating National Corridors. SELC stated that if DOE did not complete an EA or EIS, it was required to use a categorical exclusion.

DOE Response

The Department did not need to prepare an EA or invoke a categorical exclusion before designating the National Corridors at issue here because NEPA does not apply to the designations DOE has made. The Department's designation of these two National Corridors does not trigger NEPA because the designations are not major Federal actions significantly affecting the quality of the human environment. "Major Federal actions," pursuant to regulations promulgated by

the Council on Environmental Quality, include actions with effects that may be major and which are potentially subject to Federal control and responsibility. 40 CFR 1508.18. The designation of National Corridors itself has no environmental impacts.

V. Miscellaneous

To the extent other issues were raised in applications for rehearing that have not been addressed in this Order or in the other documents incorporated by reference in this Order, they have been considered by the Department and are denied.

Order

For the reasons set forth herein, *it is hereby ordered* that:

A. In Docket No. 2007–OE–01, the applications for rehearing and stay are denied. Any party to this proceeding that submitted a timely application for rehearing and is aggrieved by the Report and Order and this Order may seek judicial review in a United States Circuit Court of Appeals pursuant to section 313(b) of the FPA (16 U.S.C. 825J).

B. In Docket No. 2007–OE–02, the applications for rehearing and stay are denied. Any party to this proceeding that submitted a timely application for rehearing and is aggrieved by the Report and Order and this Order may seek judicial review in a United States Circuit Court of Appeals pursuant to section 313(b) of the FPA (16 U.S.C. 825J).

Issued in Washington, DC on March 6, 2008.

The Secretary of Energy has approved the publication of this Order.

Kevin M. Kolevar,

Assistant Secretary, Electricity Delivery and Energy Reliability.

Appendix A—Applications for Rehearing in Docket No. 2007–OE–01

Arrington, Linda
Arrington, Michael
Bair, John R.
Balasko, John A.
Bandel, Debra
Bandel, Greg
Bjalobok, Faith
Broogley, Arthur
Broogley, Kevin
Brown, Jeffrey J.
California Public Utilities Commission (Chaset, Laurence)
Communities Against Regional Interconnect (Murphy, Kevin C.)
Cooley, Frances M.
DeWeese, Bill; Pennsylvania House of Representatives
Diamond, Mitchell S.
Edison Electric Institute (Comer, Edward H.)
Eickhoff, Jane

Energy Conservation Council of Pennsylvania (Burns, Willard R.)

Feeney, Jim

Ferguson, Carol

Gerrard, Michael B.; Arnold & Porter LLP

Greene County, Pennsylvania, Department of Economic Development (Matesic, Robbie M.)

Groce, Dennis

Hanham, Alison

Hanham, Robert

Hendley, Martha

Hildebrand, Thomas & Kathy

Hixson, Jennifer

Hollowood, John T.

Kessinger, Barbara

Layton, Rick

Ly, Kirsten

Maize, Cindy

Martin, Dan

Martin, Tina

Maryland, Governor of (O'Malley, Martin)

McCoy-O'Donnell, Kimberly

Mid-Atlantic Concerned Citizens Energy

Coalition (Kessinger, Barbara)

Miller, Randy Keith

Moran, Dennis & Margaret

Morin, Philip

Moyer, Ben

Murphy, Wayne

New Jersey Board of Public Utilities (Comes, Margaret)

New York Department of Environmental

Conservation (Snyder, J. Jared)

New York Department of Public Service

(Mullany, Sean)

New York, the State of (Leary, Maureen F.)

Nicholl, Laurie

Pennsylvania Department of Environmental

Protection (Perry, Scott)

Pennsylvania Public Utilities Commission

(Levin, John A.)

Piroch, Cheryl

Scherer, Lisa

Schlossberg-Kunkel, Elena

Southern Environmental Law Center et al

(Jaffe, Cale, et al)

Stein, Glenn E.

Stout, J. Barry; Pennsylvania State Senate

Sullivan, J.R. & Becky

Tishok, Paula S

Toll Brothers, Inc. (Sullivan, Sean M.)

Virginia Office of the Attorney General

(Matsen, Maureen Riley)

Wilderness Society, The, et al (Culver, Nada, et al)

Wood, Donna

Appendix B—Comments on Docket No. 2007–OE–01

Balasko, Mary Jane²

Ben-Dov, Zohar^{1,2}

Citizens Campaign for the Environment

(Eckel-Dalrymple, Sarah)²

Delaware, Lieutenant Governor of (Carney, John C.)¹

Pike County, Pennsylvania, Commissioners

(Forbes, Harry)²

Goroncy, George D.¹

Grese, Chuck & Lisa²

Jacob, Frank¹

New York Adirondack Park Agency (Stiles, Curtis)^{1,2}

¹ Not a party of record in this proceeding.

² Application for Rehearing filed late.

⁸² BLM regulations provide that BLM conduct a NEPA review prior to any amendment to its Federal land resource management plans. 43 CFR § 1610.5–5.

Nicoloff, Richard P.¹
Oak Ridge Farm (Warrender, Patricia and Anthony)^{1,2}
Schwartz, Allyson Y.; U.S. House of Representatives (Pennsylvania)¹
Widawski, Donna¹

Appendix C—Applications for Rehearing in Docket No. 2007–OE–02

Arizona Corporation Commission (Kempley, Christopher, et al)
California Imperial Irrigation District (Swanstrom, Deborah A.)
California Public Utilities Commission (Chaset, Laurence)
Edison Electric Institute (Comer, Edward H.)
Energy Conservation Council of Pennsylvania (Burns, Willard R.)
Hildebrand, Thomas & Kathy
Maize, Cindy
Mid-Atlantic Concerned Citizens Energy Coalition (Kessinger, Barbara)
Southern Environmental Law Center et al (Jaffe, Cale, et al)
Wilderness Society, et al (Culver, Nada, et al)

[FR Doc. E8–4811 Filed 3–10–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

March 3, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–642–010; ER07–312–002; ER01–1335–012; ER01–1011–014.

Applicants: CottonWood Energy Company LP; Dogwood Energy LLC; Magnolia Energy LP; Redbud Energy LP.

Description: Cottonwood Energy Co, LP *et al.* submits notice of change in status under ER01–642 *et al.*

Filed Date: 02/12/2008

Accession Number: 20080214–0047.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 11, 2008.

Docket Numbers: ER06–758–004; ER08–201–002; ER06–635–003; ER02–237–010; ER08–202–002; ER95–1007–022; ER01–2741–007; ER07–34–004; ER03–1151–006; ER00–2235–004; ER99–3320–007; ER06–759–003; ER03–922–007; ER06–634–003.

Applicants: Chambers Cogeneration, Limited Partnership; Cogentrix Virginia Leasing Corporation; Edgcombe Genco, LLC; J. Aron & Company; James River Cogeneration Company, LLC; Logan Generating Company, LP; Plains End, LLC; Plains End II, LLC; Power Receivable Finance, LLC; Quachita Power, LLC; Rathdrum Power, LLC; Selkirk Cogen Partners, L.P.; Southaven Power, LLC; Spruance Genco, LLC.

Description: Chambers Cogenerations, Limited Partnership submits a notice of non-material change in status.

Filed Date: 02/28/2008.

Accession Number: 20080229–0090.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER02–1695–005;

ER01–2742–007; ER02–2309–004.

Applicants: Cabazon Wind Partners, LLC; Rock River I, LLC; Whitewater Hill Wind Partners LLC.

Description: Cabazon Wind Partners *et al.* submits a notice of non-material change in status.

Filed Date: 02/28/2008.

Accession Number: 20080229–0091.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER04–708–005.

Applicants: Horsehead Corp.

Description: Horsehead Corp. submits revisions to its market-based rate schedule and notice of non-material change in status in connection with the transaction approved by the Commission in Docket EC08–29.

Filed Date: 02/28/2008

Accession Number: 20080229–0092.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–149–001.

Applicants: Northeast Utilities Service Company.

Description: Compliance Filing of Northeast Utilities Service Company containing supplemental information regarding deferred Regional Transmission Organization formation costs.

Filed Date: 02/12/2008.

Accession Number: 20080212–5039.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER08–364–001.

Applicants: APX, Inc.

Description: APX Inc. submits a non-material change status.

Filed Date: 02/28/2008.

Accession Number: 20080229–0093.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–514–001.

Applicants: Arizona Public Service Company.

Description: Withdrawal of Application of Arizona Public Service Company.

Filed Date: 02/28/2008

Accession Number: 20080228–5068.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–558–001.

Applicants: WSPP Inc.

Description: Entergy Texas Inc. requests that the Commission accept an amendment to the WSPP Agreement and include ETI as a participant.

Filed Date: 02/28/2008.

Accession Number: 20080229–0094.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–611–000.

Applicants: Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corp. submits an executed Agreement for Substation Services with Nine Mile Point Nuclear Station, LLC.

Filed Date: 02/28/2008.

Accession Number: 20080229–0084.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–612–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits a Notice of Cancellation of a Lease Power Agreement dated 3/1/02 with Electrical District 1 of Pinal County, AZ etc.

Filed Date: 02/28/2008.

Accession Number: 20080229–0085.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–613–000.

Applicants: Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corp. submits executed Facilities Agreement with Power Authority of the State of New York dated 7/23/01.

Filed Date: 02/28/2008.

Accession Number: 20080229–0086.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 2008.

Docket Numbers: ER08–614–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement with North Allegheny Wind, LLC *et al.*

Filed Date: 02/28/2008.

Accession Number: 20080229–0087.

Comment Date: 5 p.m. Eastern Time on Thursday, March 20, 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. E8-4746 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08-78-000]

Columbia Gas Transmission Corporation; Notice of Application

March 4, 2008.

Take notice that on February 25, 2008, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE, Charleston, West Virginia, pursuant to section 7 of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, filed an application for a certificate of public convenience and necessity, seeking authority to extend the reservoir boundary and protective boundary of its Weaver storage field located in Ashland, Knox, and Richland Counties, Ohio, all as more fully set

forth in the application, which is on file with the Commission and open to 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 "e-Library" 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 or call toll-free, (866) 208-3676, or for TTY, (202) 502-8659.

Any questions regarding this application should be directed to Fredric J. George, Lead Counsel, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325-1273 at (304) 357-2359 (phone) or (304) 357-3206 (fax).

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, on or before the comment date stated below, 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.

However, a person does not have to intervene in order 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. 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.

Motions to intervene, protests and comments 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 25, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-4743 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12963-000]

Grays Landing Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application*: Preliminary Permit.
- b. *Project No.*: 12963-000.
- c. *Date filed*: August 15, 2007.
- d. *Applicant*: Grays Landing Hydro, LLC.
- e. *Name of Project*: Grays Landing Lock and Dam Hydroelectric Project
- f. *Location*: Monongahela River in Greene County, Pennsylvania. It would use the U.S. Army Corps of Engineers' Grays Landing Lock and Dam.
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact*: Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745-0834.
- i. *FERC Contact*: Robert Bell, (202) 502-4126.
- j. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P-12963-000) on any comments or motions filed.

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 in 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.

k. *Description of Project*: The proposed project using the U.S. Army Corps of Engineers' Grays Landing Lock and Dam and operated in a run-of-river

mode would consist of: (1) A new powerhouse and switchyard; (2) two turbine/generator units with a combined installed capacity of 15 megawatts; (3) a new 1.4-mile-long above ground 25-kilovolt transmission line extending from the switchyard to an interconnection point with West Penn Power Company's distribution system; and (4) appurtenant facilities. The proposed Grays Landing Lock and Dam Project would have an average annual generation of 47 gigawatt-hours.

l. 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, call toll-free 1-866-208-3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be

filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file

comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4742 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12959-000]

Green River 2 Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Preliminary Permit.
- b. *Project No.:* 12959-000.
- c. *Date filed:* August 14, 2007.
- d. *Applicant:* Green River 2 Hydro, LLC.
- e. *Name of Project:* Green River Lock and Dam #2 Hydroelectric Project.
- f. *Location:* Green River in McLean County, Kentucky. It would use the U.S. Army Corps of Engineers' Green River Lock and Dam #2.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745-0834.
- i. *FERC Contact:* Robert Bell, (202) 502-4126.
- j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P-12959-000) on any comments or motions filed.

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 in 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.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Green River Lock and Dam #2 and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) three turbine/generator units with a combined installed capacity of 19 megawatts; (3) a new 1.3-mile-long above ground 46-kilovolt transmission line extending from the switchyard to an interconnection point with the Kenergy Corporation's distribution system; and (4) appurtenant facilities. The proposed Green River Lock and Dam #2 Project would have an average annual generation of 60 gigawatt-hours.

l. 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, call toll-free 1-866-208-3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person

to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory

Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. **Agency Comments**—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4739 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12960-000]

Kentucky Hydro 6, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application*: Preliminary Permit.
- b. *Project No.*: 12960-000.
- c. *Date filed*: August 14, 2007.
- d. *Applicant*: Kentucky Hydro 6, LLC.
- e. *Name of Project*: Kentucky River Lock and Dam #6 Hydroelectric Project
- f. *Location*: Kentucky River in Woodford County, Kentucky. It would use the U.S. Army Corps of Engineers' Kentucky River Lock and Dam #6.
- g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact*: Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745-0834.
- i. *FERC Contact*: Robert Bell, (202) 502-4126.
- j. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P-12960-000) on any comments or motions filed.

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 in 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.

k. *Description of Project*: The proposed project using the U.S. Army Corps of Engineers' Kentucky River Lock and Dam #6 and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) two turbine/generator units with a combined installed capacity of 10 megawatts; (3) a new 3-mile-long above ground 25-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Kentucky River Lock and Dam #6 Project would have an average annual generation of 30 gigawatt-hours.

l. 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, call toll-free 1-866-208-3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the

Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4740 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3255-012]

Lyonsdale Associates, Lyonsdale Associates, LLC; Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

March 3, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Transfer of License.

b. *Project No.*: 3255-012.

c. *Date Filed*: February 15, 2008.

d. *Applicants*: Lyonsdale Associates (transferor) and Lyonsdale Associates, LLC (Transferee).

e. *Name and Location of Project*: Lyonsdale Hydroelectric Project is located on the Moose River in Lewis County, New York.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a-825r.

g. *Applicant Contacts*: For the transferor: Mr. John Matt, Lyonsdale Associates, C/O Burrows Paper

Corporation, 501 W. Main Street, Little Falls, NY 13365.

For the transferee: Mr. John Matt, Lyonsdale Associates, LLC, C/O Burrows Paper Corporation, 501 W. Main Street, Little Falls, NY 13365.

h. *FERC Contact*: Robert Bell at (202) 502-6062.

i. *Deadline for filing comments, protests, and motions to intervene*: April 3, 2008.

All documents (original and eight copies) should be filed with: Kimberly Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in 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 documents on that resource agency.

j. *Description of Application*: Applicants seek Commission approval to transfer the license for the Lyonsdale Hydroelectric Project from Lyonsdale Associates, to Lyonsdale Associates, LLC.

k. 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 (P-3255) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4729 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12962-000]

Newburgh Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 12962-000.

c. *Date filed*: August 15, 2007.

d. *Applicant*: Newburgh Hydro, LLC.

e. *Name of Project*: Newburgh Lock and Dam Hydroelectric Project.

f. *Location*: Ohio River in Henderson County, Kentucky and Newburgh

County, Indiana. It would use the U.S. Army Corps of Engineers' Newburgh Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

i. *FERC Contact:* Robert Bell, (202) 502–4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P–12962–000) on any comments or motions filed.

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 in 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.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Newburgh Lock and Dam and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) two turbine/generator units with a combined installed capacity of 170 megawatts; (3) a new 3-mile-long above ground 25-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (4) appurtenant facilities. The proposed Newburgh Lock and Dam Project would have an average annual generation of 715 gigawatt-hours.

l. 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, call toll-free 1–866–208–3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502–8659. A copy is

also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and

Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8–4741 Filed 3–10–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 12956-000]

**Nolin Hydro, LLC; Notice of
Application Accepted for Filing and
Soliciting Motions To Intervene,
Protests, and Comments**

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Preliminary Permit.
- b. *Project No.:* 12956-000.
- c. *Date filed:* August 14, 2007.
- d. *Applicant:* Nolin Hydro, LLC.
- e. *Name of Project:* Nolin Lake Dam Hydroelectric Project.
- f. *Location:* Nolin River in Edmonson County, Kentucky. It would use the U.S. Army Corps of Engineers' Nolin Lake Dam.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745-0834.
- i. *FERC Contact:* Robert Bell, (202) 502-4126.
- j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P-12956-000) on any comments or motions filed.

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 in 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.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Nolin Lake Dam and operated in a run-of-river mode would consist of: (1) A new 100-foot-long, 84-

inch diameter steel penstock; (2) a new powerhouse and switchyard; (3) one turbine/generator unit with an installed capacity of 3 megawatts; (4) a new 0.1-mile-long above ground 12.5-kilovolt transmission line extending from the switchyard to an interconnection point with the local utility's distribution system; and (5) appurtenant facilities. The proposed Nolin Lake Dam Project would have an average annual generation of 18 gigawatt-hours.

l. 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, call toll-free 1-866-208-3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit

application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for

filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-4737 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI08-3-000]

Providence Water Supply Board; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions to Intervene

March 3, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI08-3-000.

c. *Date Filed:* February 7, 2008.

d. *Applicant:* Providence Water Supply Board.

e. *Name of Project:* Providence Water Release Hydroelectric Project.

f. *Location:* The proposed Providence Water Release Hydroelectric Project will be located on the North Branch Pawtuxet River, in Providence County near Scituate, Rhode Island.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Paul J. Gadoury, PE, Director of Engineering, Providence Water Supply Board, 552 Academy Avenue, Providence, RI 02908; telephone: (401) 521-6300, ext. 7236; fax: (401) 464-8721; e-mail: <http://www.pgadoury@provwater.com>.

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502-8768, or E-mail address: henry.ecton@ferc.gov.

j. *Deadline for filing comments, protests, and/or motions:* April 3, 2008.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or 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 at <http://www.ferc.gov> under the "e-Filing" link. Please include the docket number (DI08-3-000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Providence Water Release Hydroelectric Project will include: (1) A 20-foot-long, 12-inch-diameter pipe, carrying overflow releases from the 60-inch-diameter pipe which carries water to the Providence Water Treatment Plant; (2) a proposed concrete facility containing two turbines with a total capacity of approximately 200 kW; (3) a short tailrace channeling water through a blow-off structure which discharges into the North Branch, Pawtuxet River; and (4) appurtenant facilities. The project will not be connected to the interstate grid. Power generated will be used by the water treatment plant. The proposed project will not occupy any tribal or federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at <http://www.ferc.gov>. Using the "eLibrary" link, select "Docket#" and follow the instructions. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", AND/OR "MOTIONS TO INTERVENE", as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-4733 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12958-000]

Uniontown Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 4, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12958-000.

c. *Date filed:* August 14, 2007.

d. *Applicant:* Uniontown Hydro, LLC.

e. *Name of Project:* Uniontown Lock and Dam Hydroelectric Project.

f. *Location:* Ohio River in Union County, Kentucky. It would use the U.S. Army Corps of Engineers' Uniontown Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745-0834.

i. *FERC Contact:* Robert Bell, (202) 502-4126.

j. *Deadline for filing comments, protests, and motions to intervene:* 60

days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. Please include the project number (P-12958-000) on any comments or motions filed.

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 in 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.

k. *Description of Project:* The proposed project using the U.S. Army Corps of Engineers' Uniontown Lock and Dam and operated in a run-of-river mode would consist of: (1) A new powerhouse and switchyard; (2) two turbine/generator units with a combined installed capacity of 190 megawatts; (3) a new 3-mile-long above ground 25-kilovolt transmission line extending from the switchyard to an interconnection point with the Kenergy Corporation's distribution system; and (4) appurtenant facilities. The proposed Uniontown Lock and Dam Project would have an average annual generation of 900 gigawatt-hours.

l. 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, call toll-free 1-866-208-3676 or e-mail FERCONLINESUPPORT@FERC.GOV. For TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36).

Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30 and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30 and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4738 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009-113]

Virginia Electric and Power Company; Notice of Application For Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 3, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2009-113.

c. *Date filed:* February 19, 2008.

d. *Applicant:* Virginia Electric and Power Company.

e. *Name of Project:* Roanoke Rapids and Gaston Project.

f. *Location:* The project is located on the Roanoke River in Warren County,

North Carolina. The project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Jim Thornton, Dominion Generation, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060, (804) 273–3257.

i. *FERC Contact:* Rebecca Martin at 202–502–6012, or e-mail rebecca.martin@ferc.gov.

j. *Deadline for filing comments and or motions:* April 4, 2008.

All documents (original and eight copies) should be filed with: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2009–113) on any comments or motions filed.

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 whose name appears 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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Application:* The licensee requests Commission approval to grant a permit to HQ Development, Inc. for constructing four, 16-slip, boat houses; one, 10-slip day-dock pier; and an access pathway to each of these structures. The proposed facilities and improvements would be as part of a development called "Hubquarter Landing," and would be used by its residents. No dredging is required for this proposal.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing 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. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects.

For assistance, call 1–866–208–3676 or e-mail FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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 at <http://www.ferc.gov> under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–4732 Filed 3–10–08; 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

March 3, 2008.

Take notice that on February 26, 2008, pursuant to sections 206 of the Rules and Practice and Procedure, 18 CFR 385.206, sections 205 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), TransCanada Power Marketing Ltd. (Complainant) filed a formal complaint against ISO New England Inc. (Respondent) requesting the Commission to order the Respondent to accept the Complainant's January 10, 2008 composite offers into the Forward Capacity Auction at the floor price that was established in the February 4–6, 2008 auction.

The Complainant has requested fast track processing of the complaint.

The Complainant states that a copy of the complaint has been served on the Respondent.

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 online at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on March 17, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-4730 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08-81-000]

Natural Gas Pipeline Company of America; Notice of Request Under Blanket Authorization

March 4, 2008.

Take notice that on February 27, 2008, Natural Gas Pipeline Company of America (Natural), 747 East 22nd Street, Lombard, Illinois, filed in Docket No. CP08-81-000 a prior notice request pursuant to sections 157.205, 157.208 and 157.213 of the Commission's regulations under the Natural Gas Act (NGA) and Natural's blanket certificate issued in Docket No. CP82-402-000 for authorization convert 800 MMcf of cushion gas to working gas at Natural's North Lansing storage field in Harrison County, Texas, 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, (866) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Russell Frame, Engineer, Gas Storage, Natural Gas Pipeline Company of America, 747 East 22nd Street, Lombard, Illinois 60148, or telephone (630) 691-3827.

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. E8-4736 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Records Governing Off-the-Record Communications; Public Notice

March 4, 2008.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a

summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are 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.

Exempt

Docket number	Date received	Presenter or requester
1. ER08-538-000	2-8-08	Hon. Olympia J. Snowe. Hon. Susan M. Collins.
2. Project No. 2677-019	2-12-08	Brian Tungate.
3. Project No. 2677-019	2-20-08	Arie DeWaal.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4735 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01-8-009]

Revised Public Utility Filing Requirements for Electric Quarterly Reports

Issued March 3, 2008.

AGENCY: Federal Energy Regulatory
Commission, Department of Energy.

ACTION: Notice Seeking Comments on
Proposed Revisions to Electric Quarterly
Report (EQR) Data Dictionary.

SUMMARY: In this notice, the Federal Energy Regulatory Commission (Commission) proposes to revise the EQR Data Dictionary to clarify the requirement to report all ancillary service transactions, and invites comments on this proposal. This proposal is being made to reflect the Commission's decision in Order No. 697 that information about third party sales of ancillary services at market-based rates should be reported in EQR filings, rather than being reported on a separate OASIS-like Internet site. If adopted, this proposal will make reporting this information less burdensome and more accessible.

DATES: Comments on the proposal are due April 10, 2008.

ADDRESSES: You may submit comments on the proposal, identified by Docket No. RM01-8-009, by one of the following methods:

- *Agency Web Site:* <http://www.ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Michelle Veloso (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8363.

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8321.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Sudeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. The Commission is proposing to revise the Electric Quarterly Report (EQR) Data Dictionary to clarify the requirement to report all ancillary service transactions and invites comment on this proposal.

2. This proposal is being made to reflect the Commission's decision in Order No. 697 that information about third party sales of ancillary services at market-based rates should be reported in EQR filings, rather than being reported on a separate OASIS-like Internet site. If adopted, this proposal will make reporting this information less burdensome and more accessible.

Background

3. On April 25, 2002, the Commission issued Order No. 2001, a Final Rule establishing revised public utility filing requirements.¹ This rule revised the Commission's filing requirements to require companies subject to the Commission's regulations under section 205 of the Federal Power Act² to file quarterly reports that: (1) Provide data identifying the utility on whose behalf the report is being filed (ID Data); (2) summarize pertinent data about the utility's currently effective contracts (Contract Data); and (3) summarize data about wholesale power sales the utility made during the reporting period (Transaction Data). The requirement to file EQRs replaced the requirement to file quarterly transaction reports summarizing a utility's market-based rate transactions and sales agreements that conformed to the utility's tariff.

4. In Order No. 2001, the Commission also adopted a new section in its regulations, 18 CFR 35.10b, which requires that the EQRs are to be

prepared in conformance with the Commission's software and guidance posted and available from the Commission Web site. This obviates the need to revise 18 CFR 35.10b to implement revisions to the software and guidance. Since the issuance of Order No. 2001, as need has arisen, the Commission has issued orders to resolve questions raised by EQR users and has directed Staff to issue additional guidance.

5. On September 24, 2007, the Commission issued Order No. 2001-G, adopting an EQR Data Dictionary that collected in one document the definitions of certain terms and values used in filing EQR data (previously provided in Commission orders and in guidance materials posted at the Commission's Web site) and providing formal definitions for fields that were previously undefined. On December 20, 2007, the Commission issued Order No. 2001-H, which addressed a pending request for rehearing and clarifying the information to be reported in several EQR data fields.

6. On June 21, 2007, the Commission issued Order No. 697,³ a Final Rule that codified and, in certain respects, revised the Commission's standards for market-based rates for sales of electric energy, capacity, and ancillary services. The rule retained several of the core elements of the Commission's existing standards for granting market-based rates and revised them in certain respects. The rule also adopted a number of reforms to streamline the administration of the market-based rate program. Among other issues addressed in Order No. 697, the Commission addressed the posting and reporting requirements for third-party sellers of ancillary services at market-based rates.

7. This matter had previously been addressed in *Avista Corporation*, 87 FERC ¶61,223, *order on reh'g*, 89 FERC ¶61,136 (1999) (*Avista*), among other cases. Prior to the issuance of Order No. 697, *Avista* provided a general policy stating that third-party ancillary service providers that could not perform a market power study would be allowed to sell ancillary services at market-based rates, but only in conjunction with a requirement that such third parties establish an Internet-based, OASIS-like site for providing information about and transacting ancillary services. The authorization in *Avista* extended only to the following four ancillary services: Regulation Service, Energy Imbalance

¹ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶31,127 (Apr. 25, 2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶61,074, *reconsideration and clarification denied*, Order No. 2001-B, 100 FERC ¶61,342, *order directing filings*, Order No. 2001-C, 101 FERC ¶61,314 (2002), Order No. 2001-D, *order directing filings*, 102 FERC ¶61,334, Order No. 2001-E, *order refining filing requirements*, 105 FERC ¶61,352 (2003), *clarification order*, Order No. 2001-F, 106 FERC ¶61,060 (2004), *order adopting EQR Data Dictionary*, Order No. 2001-G, 120 FERC ¶61,270 (2007), *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶61,289 (2007).

² 16 U.S.C. 824d.

³ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 72 FR 39904 (July 20, 2007), FERC Stats. & Regs. ¶31,252 (June 21, 2007), *clarifying order*, 122 FERC ¶61,260 (2007).

Service, Spinning Reserves, and Supplemental Reserves.

8. In Order No. 697, the Commission determined that it would modify its prior approach to the posting and reporting requirements for third-party sellers of ancillary services at market-based rates as announced in *Avista*. Specifically, the Commission agreed with comments arguing that the costs and responsibilities associated with establishing and maintaining an Internet-based site may outweigh the benefits that third-party sellers could derive from the sale of the additional products.

9. The Commission concluded that the Commission's EQR filing requirement provides an adequate means to monitor ancillary services sales by third parties such that the posting and reporting requirements established in *Avista* are no longer necessary.⁴ The Commission noted that, through their EQR filings, third-party providers of ancillary services provide information regarding their ancillary services transactions for each quarter, including the ancillary service or services provided, the price, and the purchaser. As a result, the Commission determined that it would no longer require third-party providers of ancillary services to establish and maintain an Internet-based OASIS-like site for providing information about their ancillary services transactions.⁵

10. Additionally, in Order No. 890, the Commission adopted a new Schedule 9 for the treatment of generator imbalances.⁶ In Order No. 2001-E, the Commission demonstrated its intention to match the ancillary service products included in the *pro forma* open access transmission tariff (OATT) by defining ancillary Product Names as they were defined in the OATT.⁷

Discussion

11. The Commission's revised requirements for the posting and reporting requirements for third-party sellers of ancillary services at market-based rates in Order No. 697 depend on sellers reporting, in the EQRs, information previously required by *Avista* to be reported and posted on an OASIS-like Internet site. Therefore, in

order to clarify the reporting requirements and to accommodate the reporting of ancillary service transactions, we propose to revise the Product Name definitions of the relevant ancillary services in Appendix A of the EQR Data Dictionary. The phrase "Reported for power sales and transmission-related transactions" will be added to the definitions for the four Product Names identified in *Avista*—Energy Imbalance, Regulation & Frequency Response, Spinning Reserve, Supplemental Reserve—to clarify that sales of these services must be reported both in the Contract and Transaction sections of the EQR. We invite comments on these proposed changes.

12. The Commission also proposes to add the Product Name "Generator Imbalance" to Appendix A of the EQR Data Dictionary to maintain consistency with the revised *pro forma* OATT.⁸ At this time, we are not proposing to add Product Names for ancillary services not explicitly identified in Order No. 890. We invite comments on whether there are other ancillary services beyond those identified in Order No. 890 that should be identified explicitly in the EQR.⁹ While the Commission does not intend to add defined Product Names for every kind of ancillary service offered by every company, there may be value to the public in identifying common or important offerings as such, rather than as the catchall "OTHER" in future EQRs.

Comment Procedures

13. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due April 10, 2008. Comments must refer to Docket No. RM01-8-009, and must include the commenter's name, the organization they represent, if applicable, and their address. Comments may be filed either in electronic or paper format.

14. Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and commenters may attach additional

files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

15. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

Document Availability

16. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

17. From the Commission's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

18. User assistance is available for eLibrary and the Commission's Web site during our normal business hours. For assistance contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

Attachment A—Proposed Revisions to Electric Quarterly Report Data Dictionary Version 1.1 (issued December 21, 2007)

Provider's Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a single hour." Schedule 9 also prescribes how the charges for this service are to be developed.

⁹For example, the Commission found that Dynamic Capacity and Energy Service as described in *Avista* is an ancillary service governed by *Avista's* ancillary service tariff. See *Avista*, 89 FERC ¶61,136 at 61,392.

⁴ Order No. 697 at P 1058.

⁵ *Id.*

⁶ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶31,241 at P 668 (Feb. 16, 2007), *order on reh'g*, Order No. 890-A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. and Regs. ¶31,261 (2007).

⁷ The Order No. 888 OATT ancillary services were Scheduling, System Control And Dispatch (Schedule 1), Reactive Supply And Voltage Control

(Schedule 2), Regulation And Frequency Response (Schedule 3), Energy Imbalance (Schedule 4), Operating Reserve—Spinning—or Spinning Reserve—(Schedule 5), Operating Reserve—Supplemental—or Supplemental Reserve—(Schedule 6). These same services are now offered under the Order No. 890 *pro forma* OATT.

⁸ Order No. 890, *pro forma* OATT at Schedule 9, provides that "Generator Imbalance Service is provided when a difference occurs between the output of a generator located in the Transmission

QR DATA DICTIONARY—ID DATA

Field No.	Field	Required	Value	Definition
1	Filer Unique Identifier	✓	FR1	(Respondent)—An identifier (i.e., “FR1”) used to designate a record containing Respondent identification information in a comma-delimited (csv) file that is imported into the EQR filing. Only one record with the FR1 identifier may be imported into an EQR for a given quarter.
1	Filer Unique Identifier	✓	FS# (where “#” is an integer).	(Seller)—An identifier (e.g., “FS1”, “FS2”) used to designate a record containing Seller identification information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each seller company may be imported into an EQR for a given quarter.
1	Filer Unique Identifier	✓	FA1	(Agent)—An identifier (i.e., “FA1”) used to designate a record containing Agent identification information in a comma-delimited (csv) file that is imported into the EQR filing. Only one record with the FA1 identifier may be imported into an EQR for a given quarter.
2	Company Name	✓	Unrestricted text (100 characters).	(Respondent)—The name of the company taking responsibility for complying with the Commission’s regulations related to the EQR.
2	Company Name	✓	Unrestricted text (100 characters).	(Seller)—The name of the company that is authorized to make sales as indicated in the company’s FERC tariff(s). This name may be the same as the Company Name of the Respondent.
2	Company Name	✓	Unrestricted text (100 characters).	(Agent)—The name of the entity completing the EQR filing. The Agent’s Company Name need not be the name of the company under Commission jurisdiction.
3	Company DUNS Number	for Respondent and Seller.	Nine digit number	The unique nine digit number assigned by Dun and Bradstreet to the company identified in Field Number 2.
4	Contact Name	✓	Unrestricted text (50 characters).	(Respondent)—Name of the person at the Respondent’s company taking responsibility for compliance with the Commission’s EQR regulations.
4	Contact Name	✓	Unrestricted text (50 characters).	(Seller)—The name of the contact for the company authorized to make sales as indicated in the company’s FERC tariff(s). This name may be the same as the Contact Name of the Respondent.
4	Contact Name	✓	Unrestricted text (50 characters).	(Agent)—Name of the contact for the Agent, usually the person who prepares the filing.
5	Contact Title	✓	Unrestricted text (50 characters).	Title of contact identified in Field Number 4.
6	Contact Address	✓	Unrestricted text	Street address for contact identified in Field Number 4.
7	Contact City	✓	Unrestricted text (30 characters).	City for the contact identified in Field Number 4.
8	Contact State	✓	Unrestricted text (2 characters).	Two character state or province abbreviations for the contact identified in Field Number 4.
9	Contact Zip	✓	Unrestricted text (10 characters).	Zip code for the contact identified in Field Number 4.
10	Contact Country Name ..	✓	CA—Canada MX—Mexico US—United States UK— United Kingdom.	Country (USA, Canada, Mexico, or United Kingdom) for contact address identified in Field Number 4.
11	Contact Phone	✓	Unrestricted text (20 characters).	Phone number of contact identified in Field Number 4.
12	Contact E-Mail	✓	Unrestricted text	E-mail address of contact identified in Field Number 4.
13	Filing Quarter	✓	YYYYMM	A six digit reference number used by the EQR software to indicate the quarter and year of the filing for the purpose of importing data from csv files. The first 4 numbers represent the year (e.g., 2007). The last 2 numbers represent the last month of the quarter (e.g., 03=1st quarter; 06=2nd quarter, 09=3rd quarter, 12=4th quarter).

QR DATA DICTIONARY—CONTRACT DATA

Field No.	Field	Required	Value	Definition
14	Contract Unique ID	✓	An integer proceeded by the letter "C" (only used when importing contract data).	An identifier beginning with the letter "C" and followed by a number (e.g., "C1", "C2") used to designate a record containing contract information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each contract product may be imported into an EQR for a given quarter.
15	Seller Company Name	✓	Unrestricted text (100 characters).	The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s). This name must match the name provided as a Seller's "Company Name" in Field Number 2 of the ID Data (Seller Data).
16	Customer Company Name ...	✓	Unrestricted text (70 characters).	The name of the counterparty.
17	Customer DUNS Number	✓	Nine digit number	The unique nine digit number assigned by Dun and Bradstreet to the company identified in Field Number 16.
18	Contract Affiliate	✓	Y (Yes) N (No)	The customer is an affiliate if it controls, is controlled by or is under common control with the seller. This includes a division that operates as a functional unit. A customer of a seller who is an Exempt Wholesale Generator may be defined as an affiliate under the Public Utility Holding Company Act and the FPA.
19	FERC Tariff Reference	✓	Unrestricted text (60 characters).	The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed.
20	Contract Service Agreement ID.	✓	Unrestricted text (30 characters).	Unique identifier given to each service agreement that can be used by the filing company to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed with and accepted by the Commission, or it may be generated as part of an internal identification system.
21	Contract Execution Date	✓	YYYYMMDD	The date the contract was signed. If the parties signed on different dates, use the most recent date signed.
22	Contract Commencement Date.	✓	YYYYMMDD	The date the terms of the contract reported in the Contract Data section of the EQR were effective. If the terms reported in the EQR became effective or if service under those terms began on multiple dates (i.e.: due to an amendment), the date to be reported as the Commencement Date is the date when service began pursuant to the most recent amendment to the terms reported in the Contract Data section of the EQR.
23	Contract Termination Date ...	If specified in the contract.	YYYYMMDD	The date that the contract expires.
24	Actual Termination Date Extension.	If contract terminated.	YYYYMMDD	The date the contract actually terminates.
25	Provision Description	✓	Unrestricted text	Description of terms that provide for the continuation of the contract.
26	Class Name .....	✓	.....	See definitions of each class name below.
26	Class Name	✓	F—Firm	For transmission sales, a service or product that always has priority over non-firm service. For power sales, a service or product that is not interruptible for economic reasons.
26	Class Name	✓	NF—Non-firm	For transmission sales, a service that is reserved and/or scheduled on an as-available basis and is subject to curtailment or interruption at a lesser priority compared to Firm service. For an energy sale, a service or product for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.
26	Class Name	✓	UP—Unit Power Sale	Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s).

QR DATA DICTIONARY—CONTRACT DATA—Continued

Field No.	Field	Required	Value	Definition
26	Class Name	✓	N/A—Not Applicable	To be used only when the other available Class Names do not apply.
27	Term Name	✓	LT—Long Term ST—Short Term N/A—Not Applicable.	Contracts with durations of one year or greater are long-term. Contracts with shorter durations are short-term.
28	Increment Name .....	✓	.....	See definitions for each increment below.
28	Increment Name	✓	H—Hourly	Terms of the contract (if specifically noted in the contract) set for up to 6 consecutive hours (≤ 6 consecutive hours).
28	Increment Name	✓	D—Daily	Terms of the contract (if specifically noted in the contract) set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours).
28	Increment Name	✓	W—Weekly	Terms of the contract (if specifically noted in the contract) set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours).
28	Increment Name	✓	M—Monthly	Terms of the contract (if specifically noted in the contract) set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year).
28	Increment Name	✓	Y—Yearly	Terms of the contract (if specifically noted in the contract) set for one year or more (≥ 1 year).
28	Increment Name	✓	N/A—Not Applicable	Terms of the contract do not specify an increment.
29	Increment Peaking Name .....	✓	.....	See definitions for each increment peaking name below.
29	Increment Peaking Name	✓	FP—Full Period	The product described may be sold during those hours designated as on-peak and off-peak in the NERC region of the point of delivery.
29	Increment Peaking Name	✓	OP—Off-Peak	The product described may be sold only during those hours designated as off-peak in the NERC region of the point of delivery.
29	Increment Peaking Name	✓	P—Peak	The product described may be sold only during those hours designated as on-peak in the NERC region of the point of delivery.
29	Increment Peaking Name	✓	N/A—Not Applicable	To be used only when the increment peaking name is not specified in the contract.
30	Product Type Name .....	✓	.....	See definitions for each product type below.
30	Product Type Name	✓	CB—Cost Based	Energy or capacity sold under a FERC-approved cost-based rate tariff.
30	Product Type Name	✓	CR—Capacity Reassignment	An agreement under which a transmission provider sells, assigns or transfers all or portion of its rights to an eligible customer.
30	Product Type Name	✓	MB—Market Based	Energy or capacity sold under the seller's FERC-approved market-based rate tariff.
30	Product Type Name	✓	T—Transmission	The product is sold under a FERC-approved transmission ariff.
30	Product Type Name	✓	Other	The product cannot be characterized by the other product type names.
31	Product Name	✓	See Product Name Table, Appendix A..	Description of product being offered.
32	Quantity	If specified in the contract.	Number with up to 4 decimals.	Quantity for the contract product identified.
33	Units	If specified in the contract.	See Units Table, Appendix E.	Measure stated in the contract for the product sold.
34	Rate	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	The charge for the product per unit as stated in the contract.

QR DATA DICTIONARY—CONTRACT DATA—Continued

Field No.	Field	Required	Value	Definition
35	Rate Minimum	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	Minimum rate to be charged per the contract, if a range is specified.
36	Rate Maximum	One of four rate fields (34, 35, 36, or 37) must be included.	Number with up to 4 decimals.	Maximum rate to be charged per the contract, if a range is specified.
37	Rate Description	One of four rate fields (34, 35, 36, or 37) must be included.	Unrestricted text	Text description of rate. If the rate is currently available on the FERC Web site, a citation of the FERC Accession Number and the relevant FERC tariff including page number or section may be included instead of providing the entire rate algorithm. If the rate is not available on the FERC Web site, include the rate algorithm, if rate is calculated. If the algorithm would exceed the 150 character field limit, it may be provided in a descriptive summary (including bases and methods of calculations) with a detailed citation of the relevant FERC tariff including page number and section. If more than 150 characters are required, the contract product may be repeated in a subsequent line of data until the rate is adequately described.
38	Rate Units	If specified in the contract.	See Rate Units Table, Appendix F.	Measure stated in the contract for the product sold.
39	Point of Receipt Balancing Authority (PORBA).	If specified in the contract.	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) where service begins for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If receipt occurs at a trading hub specified in the EQR software, the term "Hub" should be used.
40	Point of Receipt Specific Location (PORSL).	If specified in the contract.	Unrestricted text (50 characters). If "HUB" is selected for PORCA, see Hub Table, Appendix C.	The specific location at which the product is received if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used. If more points of receipt are listed in the contract than can fit into the 50 character space, a description of the collection of points may be used. 'Various,' alone, is unacceptable unless the contract itself uses that terminology.
41	Point of Delivery Balancing Authority (PODBA).	If specified in the contract.	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) where a jurisdictional product is delivered and/or service ends for a transmission or transmission-related jurisdictional sale. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If delivery occurs at the interconnection of two control areas, the control area that the product is entering should be used. If delivery occurs at a trading hub specified in the EQR software, the term "Hub" should be used.
42	Point of Delivery Specific Location (PODSL).	If specified in the contract.	Unrestricted text (50 characters). If "HUB" is selected for PODCA, see Hub Table, Appendix C.	The specific location at which the product is delivered if designated in the contract. If receipt occurs at a trading hub, a standardized hub name must be used.

QR DATA DICTIONARY—CONTRACT DATA—Continued

Field No.	Field	Required	Value	Definition
43	Begin Date	If specified in the contract.	YYYYMMDDHHMM	First date for the sale of the product at the rate specified.
44	End Date	If specified in the contract.	YYYYMMDDHHMM	Last date for the sale of the product at the rate specified.
45	Time Zone	✓	See Time Zone Table, Appendix D.	The time zone in which the sales will be made under the contract.

QR DATA DICTIONARY—TRANSACTION DATA

Field No.	Field	Required	Value	Definition
46	Transaction Unique ID ...	✓	An integer proceeded by the letter "T" (only used when importing transaction data).	An identifier beginning with the letter "T" and followed by a number (e.g., "T1", "T2") used to designate a record containing transaction information in a comma-delimited (csv) file that is imported into the EQR filing. One record for each transaction record may be imported into an EQR for a given quarter. A new transaction record must be used every time a price changes in a sale.
47	Seller Company Name ...	✓	Unrestricted text (100 Characters).	The name of the company that is authorized to make sales as indicated in the company's FERC tariff(s). This name must match the name provided as a Seller's "Company Name" in Field 2 of the ID Data (Seller Data).
48	Customer Company Name.	✓	Unrestricted text (70 Characters).	The name of the counterparty.
49	Customer DUNS Number	✓	Nine digit number	The unique nine digit number assigned by Dun and Bradstreet to the counterparty to the contract.
50	FERC Tariff Reference ..	✓	Unrestricted text (60 Characters).	The FERC tariff reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. If the sales are market-based, the tariff that is specified in the FERC order granting the Seller Market Based Rate Authority must be listed.
51	Contract Service Agreement ID.	✓	Unrestricted text (30 Characters).	Unique identifier given to each service agreement that can be used by the filing company to produce the agreement, if requested. The identifier may be the number assigned by FERC for those service agreements that have been filed and approved by the Commission, or it may be generated as part of an internal identification system.
52	Transaction Unique Identifier.	✓	Unrestricted text (24 Characters).	Unique reference number assigned by the seller for each transaction.
53	Transaction Begin Date	✓	YYYYMMDDHHMM (csv import). MMDDYYYYHHMM (manual entry).	First date and time the product is sold during the quarter.
54	Transaction End Date	✓	YYYYMMDDHHMM (csv import). MMDDYYYYHHMM (manual entry).	Last date and time the product is sold during the quarter.
55	Time Zone	✓	See Time Zone Table, Appendix D.	The time zone in which the sales will be made under the contract.
56	Point of Delivery Balancing Authority (PODBA).	✓	See Balancing Authority Table, Appendix B.	The registered NERC Balancing Authority (formerly called NERC Control Area) abbreviation used in OASIS applications.

QR DATA DICTIONARY—TRANSACTION DATA—Continued

Field No.	Field	Required	Value	Definition
57	Point of Delivery Specific Location (PODSL).	✓	Unrestricted text (50 characters). If "HUB" is selected for PODBA, see Hub Table, Appendix C.	The specific location at which the product is delivered. If receipt occurs at a trading hub, a standardized hub name must be used.
58	Class Name .....	✓	.....	See class name definitions below.
58	Class Name	✓	F—Firm	A sale, service or product that is not interruptible for economic reasons.
58	Class Name	✓	NF—Non-firm	A sale for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either the buyer or seller.
58	Class Name	✓	UP—Unit Power Sale	Designates a dedicated sale of energy and capacity from one or more than one specified generation unit(s).
58	Class Name	✓	BA—Billing Adjustment	Designates an incremental material change to one or more transactions due to a change in settlement results. "BA" may be used in a refile after the next quarter's filing is due to reflect the receipt of new information. It may not be used to correct an inaccurate filing.
58	Class Name	✓	N/A—Not Applicable	To be used only when the other available class names do not apply.
59	Term Name	✓	LT—Long Term	Power sales transactions with durations of one year or greater are long-term. Transactions with shorter durations are short-term.
60	Increment Name	✓	ST—Short Term	See increment name definitions below.
60	Increment Name	✓	N/A—Not Applicable	Terms of the particular sale set for up to 6 consecutive hours (≤ 6 consecutive hours) Includes LMP based sales in ISO/RTO markets.
60	Increment Name	✓	H—Hourly	Terms of the particular sale set for more than 6 and up to 60 consecutive hours (>6 and ≤ 60 consecutive hours) Includes sales over a peak or off-peak block during a single day.
60	Increment Name	✓	D—Daily	Terms of the particular sale set for over 60 consecutive hours and up to 168 consecutive hours (>60 and ≤ 168 consecutive hours). Includes sales for a full week and sales for peak and off-peak blocks over a particular week.
60	Increment Name	✓	W—Weekly	Terms of the particular sale set for set for more than 168 consecutive hours up to, but not including, one year (>168 consecutive hours and < 1 year). Includes sales for full month or multi-week sales during a given month.
60	Increment Name	✓	M—Monthly	Terms of the particular sale set for one year or more (≥ 1 year). Includes all long-term contracts with defined pricing terms (fixed-price, formula, or index).
60	Increment Name	✓	Y—Yearly	To be used only when other available increment names do not apply.
60	Increment Name	✓	N/A—Not Applicable	See definitions for increment peaking below.
61	Increment Peaking Name	✓	.....	The product described was sold during Peak and Off-Peak hours.
61	Increment Peaking Name	✓	FP—Full Period	The product described was sold only during those hours designated as off-peak in the NERC region of the point of delivery.
61	Increment Peaking Name	✓	OP—Off-Peak	The product described was sold only during those hours designated as on-peak in the NERC region of the point of delivery.
61	Increment Peaking Name	✓	P—Peak	To be used only when the other available increment peaking names do not apply.
61	Increment Peaking Name	✓	N/A—Not Applicable	Description of product being offered.
62	Product Name	✓	See Product Names Table, Appendix A.	
63	Transaction Quantity	✓	Number with up to 4 decimals.	The quantity of the product in this transaction.
64	Price	✓	Number with up to 6 decimals.	Actual price charged for the product per unit. The price reported cannot be averaged or otherwise aggregated.
65	Rate Units	✓	See Rate Units Table, Appendix F.	Measure appropriate to the price of the product sold.

QR DATA DICTIONARY—TRANSACTION DATA—Continued

Field No.	Field	Required	Value	Definition
66	Total Transmission Charge.	✓	Number with up to 2 decimals.	Payments received for transmission services when explicitly identified.
67	Total Transaction Charge	✓	Number with up to 2 decimals.	Transaction Quantity (Field 63) times Price (Field 64) plus Total Transmission Charge (Field 66).

QR DATA DICTIONARY—APPENDIX A. PRODUCT NAMES

Product name	Contract product	Transaction product	Definition
BLACK START SERVICE	✓	✓	Service available after a system-wide blackout where a generator participates in system restoration activities without the availability of an outside electric supply (Ancillary Service).
BOOKED OUT POWER		✓	Energy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing trade (Transaction only).
CAPACITY	✓	✓	A quantity of demand that is charged on a \$/KW or \$/MW basis.
CUSTOMER CHARGE	✓	✓	Fixed contractual charges assessed on a per customer basis that could include billing service.
DIRECT ASSIGNMENT FACILITIES CHARGE.	✓		Charges for facilities or portions of facilities that are constructed or used for the sole use/benefit of a particular customer.
EMERGENCY ENERGY	✓		Contractual provisions to supply energy or capacity to another entity during critical situations.
ENERGY	✓	✓	A quantity of electricity that is sold or transmitted over a period of time.
ENERGY IMBALANCE	✓	✓	Service provided when a difference occurs between the scheduled and the actual delivery of energy to a load obligation. Reported for power sales and transmission-related transactions.
EXCHANGE	✓	✓	Transaction whereby the receiver accepts delivery of energy for a supplier's account and returns energy at times, rates, and in amounts as mutually agreed if the receiver is not an RTO/ISO.
FUEL CHARGE	✓	✓	Charge based on the cost or amount of fuel used for generation.
GENERATOR IMBALANCE	✓	✓	Service provided when a difference occurs between the output of a generator located in the Transmission Provider's Control Area and a delivery schedule from that generator to (1) another Control Area or (2) a load within the Transmission Provider's Control Area over a single hour. Reported for power sales and transmission-related transactions.
GRANDFATHERED BUNDLED	✓	✓	Services provided for bundled transmission, ancillary services and energy under contracts effective prior to Order No. 888's OATTs.
INTERCONNECTION AGREEMENT	✓		Contract that provides the terms and conditions for a generator, distribution system owner, transmission owner, transmission provider, or transmission system to physically connect to a transmission system or distribution system.
MEMBERSHIP AGREEMENT	✓		Agreement to participate and be subject to rules of a system operator.
MUST RUN AGREEMENT	✓		An agreement that requires a unit to run.
NEGOTIATED-RATE TRANSMISSION.	✓	✓	Transmission performed under a negotiated rate contract (applies only to merchant transmission companies).
NETWORK	✓		Transmission service under contract providing network service.
NETWORK OPERATING AGREEMENT.	✓		An executed agreement that contains the terms and conditions under which a network customer operates its facilities and the technical and operational matters associated with the implementation of network integration transmission service.
OTHER	✓	✓	Product name not otherwise included.
POINT-TO-POINT AGREEMENT	✓		Transmission service under contract between specified Points of Receipt and Delivery.
REACTIVE SUPPLY & VOLTAGE CONTROL.	✓	✓	Production or absorption of reactive power to maintain voltage levels on transmission systems (Ancillary Service).
REAL POWER TRANSMISSION LOSS.	✓	✓	The loss of energy, resulting from transporting power over a transmission system.
REGULATION & FREQUENCY RESPONSE.	✓	✓	Service providing for continuous balancing of resources (generation and interchange) with load, and for maintaining scheduled interconnection frequency by committing on-line generation where output is raised or lowered and by other non-generation resources capable of providing this service as necessary to follow the moment-by-moment changes in load (Ancillary Service). Reported for power sales and transmission-related transactions.

QR DATA DICTIONARY—APPENDIX A. PRODUCT NAMES—Continued

Product name	Contract product	Transaction product	Definition
REQUIREMENTS SERVICE	✓	✓	Firm, load-following power supply necessary to serve a specified share of customer's aggregate load during the term of the agreement. Requirements service may include some or all of the energy, capacity and ancillary service products. (If the components of the requirements service are priced separately, they should be reported separately in the transactions tab.)
SCHEDULE SYSTEM CONTROL & DISPATCH.	✓	✓	Scheduling, confirming and implementing an interchange schedule with other Balancing Authorities, including intermediary Balancing Authorities providing transmission service, and ensuring operational security during the interchange transaction (Ancillary Service).
SPINNING RESERVE	✓	✓	Unloaded synchronized generating capacity that is immediately responsive to system frequency and that is capable of being loaded in a short time period or non-generation resources capable of providing this service (Ancillary Service). Reported for power sales and transmission-related transactions.
SUPPLEMENTAL RESERVE	✓	✓	Service needed to serve load in the event of a system contingency, available with greater delay than SPINNING RESERVE. This service may be provided by generating units that are on-line but unloaded, by quick-start generation, or by interruptible load or other non-generation resources capable of providing this service (Ancillary Service). Reported for power sales and transmission-related transactions.
SYSTEM OPERATING AGREEMENTS.	✓		An executed agreement that contains the terms and conditions under which a system or network customer shall operate its facilities and the technical and operational matters associated with the implementation of network.
TOLLING ENERGY	✓	✓	Energy sold from a plant whereby the buyer provides fuel to a generator (seller) and receives power in return for pre-established fees.
TRANSMISSION OWNERS AGREEMENT.	✓		The agreement that establishes the terms and conditions under which a transmission owner transfers operational control over designated transmission facilities.
UPLIFT	✓	✓	A make-whole payment by an RTO/ISO to a utility.

QR DATA DICTIONARY—APPENDIX B. BALANCING AUTHORITY

Balancing authority	Abbreviation	Outside US*
AESC, LLC—Wheatland CIN	AESC .....	.....
Alabama Electric Cooperative, Inc	AEC .....	.....
Alberta Electric System Operator	AESO	✓
Alliant Energy Corporate Services, LLC—East	ALTE .....	.....
Alliant Energy Corporate Services, LLC—West	ALTW .....	.....
Ameren Transmission	AMRN .....	.....
Ameren Transmission. Illinois	AMIL .....	.....
Ameren Transmission. Missouri	AMMO .....	.....
American Transmission Systems, Inc	FE .....	.....
Aquila Networks—Kansas	WPEK .....	.....
Aquila Networks—Missouri Public Service	MPS .....	.....
Aquila Networks—West Plains Dispatch	WPEC .....	.....
Arizona Public Service Company	AZPS .....	.....
Associated Electric Cooperative, Inc	AECI .....	.....
Avista Corp	AVA .....	.....
Batesville Balancing Authority	BBA .....	.....
Big Rivers Electric Corp	BREC .....	.....
Board of Public Utilities	KACY .....	.....
Bonneville Power Administration Transmission	BPAT .....	.....
British Columbia Transmission Corporation	BCTC	✓
California Independent System Operator	CISO .....	.....
Carolina Power & Light Company—CPLW	CPLW .....	.....
Carolina Power and Light Company—East	CPL .....	.....
Central and Southwest	CSWS .....	.....
Central Illinois Light Co	CILC .....	.....
Chelan County PUD	CHPD .....	.....
Cinergy Corporation	CIN .....	.....
City of Homestead	HST .....	.....
City of Independence P&L Dept	INDN .....	.....
City of Tallahassee	TAL .....	.....
City Water Light & Power	CWLP .....	.....
Cleco Power LLC	CLEC .....	.....

QR DATA DICTIONARY—APPENDIX B. BALANCING AUTHORITY—Continued

Balancing authority	Abbreviation	Outside US*
Columbia Water & Light	CWLD .....	.....
Comision Federal de Electricidad	CFE	✓
Constellation Energy Control and Dispatch—Arkansas	PUPP .....	.....
Constellation Energy Control and Dispatch—City of Benton, AR	BUBA .....	.....
Constellation Energy Control and Dispatch—City of Ruston, LA	DERS .....	.....
Constellation Energy Control and Dispatch—Conway, Arkansas	CNWX .....	.....
Constellation Energy Control and Dispatch—Gila River	GRMA .....	.....
Constellation Energy Control and Dispatch—Harquehala	HGMA .....	.....
Constellation Energy Control and Dispatch—North Little Rock, AK	DENL .....	.....
Constellation Energy Control and Dispatch—West Memphis, Arkansas	WMUC .....	.....
Dairyland Power Cooperative	DPC .....	.....
DECA, LLC—Arlington Valley	DEAA .....	.....
Duke Energy Corporation	DUK .....	.....
East Kentucky Power Cooperative, Inc	EKPC .....	.....
El Paso Electric	EPE .....	.....
Electric Energy, Inc	EEI .....	.....
Empire District Electric Co., The	EDE .....	.....
Entergy	EES .....	.....
ERCOT ISO	ERCO .....	.....
Florida Municipal Power Pool	FMPP .....	.....
Florida Power & Light	FPL .....	.....
Florida Power Corporation	FPC .....	.....
Gainesville Regional Utilities	GVL .....	.....
Georgia System Operations Corporation	GSOC .....	.....
Georgia Transmission Corporation	GTC .....	.....
Grand River Dam Authority	GRDA .....	.....
Grant County PUD No. 2	GCPD .....	.....
Great River Energy	GRE .....	.....
Great River Energy	GREC .....	.....
Great River Energy	GREN .....	.....
Great River Energy	GRES .....	.....
GridAmerica	GA .....	.....
Hoosier Energy	HE .....	.....
Hydro-Quebec, TransEnergie	HQT	✓
Idaho Power Company	IPCO .....	.....
Illinois Power Co	IP .....	.....
Illinois Power Co	IPRV .....	.....
Imperial Irrigation District	IID .....	.....
Indianapolis Power & Light Company	IPL .....	.....
ISO New England Inc	ISNE .....	.....
JEA	JEA .....	.....
Kansas City Power & Light, Co	KCPL .....	.....
Lafayette Utilities System	LAFA .....	.....
LG&E Energy Transmission Services	LGEE .....	.....
Lincoln Electric System	LES .....	.....
Los Angeles Department of Water and Power	LDWP .....	.....
Louisiana Energy & Power Authority	LEPA .....	.....
Louisiana Generating, LLC	LAGN .....	.....
Madison Gas and Electric Company	MGE .....	.....
Manitoba Hydro Electric Board, Transmission Services	MHEB	✓
Michigan Electric Coordinated System	MECS .....	.....
Michigan Electric Coordinated System—CONS	CONS .....	.....
Michigan Electric Coordinated System—DECO	DECO .....	.....
MidAmerican Energy Company	MEC .....	.....
Midwest ISO	MISO .....	.....
Minnesota Power, Inc	MP .....	.....
Montana-Dakota Utilities Co	MDU .....	.....
Muscatine Power and Water	MPW .....	.....
Nebraska Public Power District	NPPD .....	.....
Nevada Power Company	NEVP .....	.....
New Brunswick Power Corporation	NBPC	✓
New Horizons Electric Cooperative	NHC1 .....	.....
New York Independent System Operator	NYIS .....	.....
North American Electric Reliability Council	TEST .....	.....
Northern Indiana Public Service Company	NIPS .....	.....
Northern States Power Company	NSP .....	.....
NorthWestern Energy	NWMT .....	.....
Ohio Valley Electric Corporation	OVEC .....	.....
Oklahoma Gas and Electric	OKGE .....	.....
Ontario—Independent Electricity Market Operator	IMO	✓
OPPD CA/TP	OPPD .....	.....

QR DATA DICTIONARY—APPENDIX B. BALANCING AUTHORITY—Continued

Balancing authority	Abbreviation	Outside US*
Otter Tail Power Company	OTP .....	.....
P.U.D. No. 1 of Douglas County	DOPD .....	.....
PacifiCorp—East	PACE .....	.....
PacifiCorp—West	PACW .....	.....
PJM Interconnection	PJM .....	.....
Portland General Electric	PGE .....	.....
Public Service Company of Colorado	PSCO .....	.....
Public Service Company of New Mexico	PNM .....	.....
Puget Sound Energy Transmission	PSEI .....	.....
Reedy Creek Improvement District	RC .....	.....
Sacramento Municipal Utility District	SMUD .....	.....
Salt River Project	SRP .....	.....
Santee Cooper	SC .....	.....
SaskPower Grid Control Centre	SPC	✓
Seattle City Light	SCL .....	.....
Seminole Electric Cooperative	SEC .....	.....
Sierra Pacific Power Co.—Transmission	SPPC .....	.....
South Carolina Electric & Gas Company	SCEG .....	.....
South Mississippi Electric Power Association	SME .....	.....
South Mississippi Electric Power Association	SMEE .....	.....
Southeastern Power Administration—Hartwell	SEHA .....	.....
Southeastern Power Administration—Russell	SERU .....	.....
Southeastern Power Administration—Thurmond	SETH .....	.....
Southern Company Services, Inc	SOCO .....	.....
Southern Illinois Power Cooperative	SIPC .....	.....
Southern Indiana Gas & Electric Co	SIGE .....	.....
Southern Minnesota Municipal Power Agency	SMP .....	.....
Southwest Power Pool	SWPP .....	.....
Southwestern Power Administration	SPA .....	.....
Southwestern Public Service Company	SPS .....	.....
Sunflower Electric Power Corporation	SECI .....	.....
Tacoma Power	TPWR .....	.....
Tampa Electric Company	TEC .....	.....
Tennessee Valley Authority ESO	TVA .....	.....
Trading Hub	HUB .....	.....
TRANSLink Management Company	TLKN .....	.....
Tucson Electric Power Company	TEPC .....	.....
Turlock Irrigation District	TIDC .....	.....
Upper Peninsula Power Co	UPPC .....	.....
Utilities Commission, City of New Smyrna Beach	NSB .....	.....
Westar Energy—MoPEP Cities	MOWR .....	.....
Western Area Power Administration—Colorado-Missouri	WACM .....	.....
Western Area Power Administration—Lower Colorado	WALC .....	.....
Western Area Power Administration—Upper Great Plains East	WAUE .....	.....
Western Area Power Administration—Upper Great Plains West	WAUW .....	.....
Western Farmers Electric Cooperative	WFEC .....	.....
Western Resources dba Westar Energy	WR .....	.....
Wisconsin Energy Corporation	WEC .....	.....
Wisconsin Public Service Corporation	WPS .....	.....
Yadkin, Inc	YAD .....	.....

* Balancing authorities outside the United States may only be used in the Contract Data section to identify specified receipt/delivery points in jurisdictional transmission contracts.

QR DATA DICTIONARY—APPENDIX C. HUB

HUB	Definition
ADHUB	The aggregated Locational Marginal Price (“LMP”) nodes defined by PJM Interconnection, LLC as the AEP/Dayton Hub.
AEPGenHub	The aggregated Locational Marginal Price (“LMP”) nodes defined by PJM Interconnection, LLC as the AEPGenHub.
COB	The set of delivery points along the California-Oregon commonly identified as and agreed to by the counterparties to constitute the COB Hub.
Cinergy (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Cinergy balancing authority.
Cinergy Hub (MISO)	The aggregated Elemental Pricing nodes (“Epnodes”) defined by the Midwest Independent Transmission System Operator, Inc., as Cinergy Hub (MISO).
Entergy (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Entergy balancing authority.
FE Hub	The aggregated Elemental Pricing nodes (“Epnodes”) defined by the Midwest Independent Transmission System Operator, Inc., as FE Hub (MISO).

QR DATA DICTIONARY—APPENDIX C. HUB—Continued

HUB	Definition
Four Corners	The set of delivery points at the Four Corners power plant commonly identified as and agreed to by the counterparties to constitute the Four Corners Hub.
Illinois Hub (MISO)	The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Illinois Hub (MISO).
Mead	The set of delivery points at or near Hoover Dam commonly identified as and agreed to by the counterparties to constitute the Mead Hub.
Michigan Hub (MISO)	The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Michigan Hub (MISO).
Mid-Columbia (Mid-C)	The set of delivery points along the Columbia River commonly identified as and agreed to by the counterparties to constitute the Mid-Columbia Hub.
Minnesota Hub (MISO)	The aggregated Elemental Pricing nodes ("Epnodes") defined by the Midwest Independent Transmission System Operator, Inc., as Minnesota Hub (MISO).
NEPOOL (Mass Hub)	The aggregated Locational Marginal Price ("LMP") defined by ISO New England Inc., as Mass Hub.
NIHUB	The aggregated Locational Marginal Price ("LMP") defined by PJM Interconnection, LLC as the Northern Illinois Hub.
NOB	The set of delivery points along the Nevada-Oregon border commonly identified as and agreed to by the counterparties to constitute the NOB Hub.
NP15	The set of delivery points north of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the NP15 Hub.
NWMT	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Northwestern Energy Montana balancing authority.
PJM East Hub	The aggregated Locational Marginal Price nodes ("LMP") defined by PJM Interconnection, LLC as the PJM East Hub.
PJM South Hub	The aggregated Locational Marginal Price ("LMP") defined by PJM Interconnection, LLC as the PJM South Hub.
PJM West Hub	The aggregated Locational Marginal Price ("LMP") defined by PJM Interconnection, LLC as the PJM Western Hub.
Palo Verde	The switch yard at the Palo Verde nuclear power station west of Phoenix in Arizona. Palo Verde Hub includes the Hassayampa switchyard 2 miles south of Palo Verde.
SOCO (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Southern Company balancing authority.
SP15	The set of delivery points south of Path 15 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the SP15 Hub.
TVA (into)	The set of delivery points commonly identified as and agreed to by the counterparties to constitute delivery into the Tennessee Valley Authority balancing authority.
ZP26	The set of delivery points associated with Path 26 on the California transmission grid commonly identified as and agreed to by the counterparties to constitute the ZP26 Hub.

QR DATA DICTIONARY—APPENDIX D.
TIME ZONE

Time zone	Definition
AD	Atlantic Daylight.
AP	Atlantic Prevailing.
AS	Atlantic Standard.
CD	Central Daylight.
CP	Central Prevailing.
CS	Central Standard.
ED	Eastern Daylight.
EP	Eastern Prevailing.
ES	Eastern Standard.
MD	Mountain Daylight.
MP	Mountain Prevailing.
MS	Mountain Standard.
NA	Not Applicable.
PD	Pacific Daylight.
PP	Pacific Prevailing.
PS	Pacific Standard.
UT	Universal Time.

QR DATA DICTIONARY—APPENDIX E.
UNITS

Units	Definition
KV	Kilovolt.
KVA	Kilovolt Amperes.
KVR	Kilovar.

QR DATA DICTIONARY—APPENDIX E.
UNITS—Continued

Units	Definition
KW	Kilowatt.
KWH	Kilowatt Hour.
KW-DAY	Kilowatt Day.
KW-MO	Kilowatt Month.
KW-WK	Kilowatt Week.
KW-YR	Kilowatt Year.
MVAR-YR	Megavar Year.
MW	Megawatt.
MWH	Megawatt Hour.
MW-DAY	Megawatt Day.
MW-MO	Megawatt Month.
MW-WK	Megawatt Week.
MW-YR	Megawatt Year.
RKVA	Reactive Kilovolt Amperes.
FLAT RATE	Flat Rate.

QR DATA DICTIONARY—APPENDIX F.
RATE UNITS

Rate units	Definition
\$/KV	dollars per kilovolt.
\$/KVA	dollars per kilovolt amperes.
\$/KVR	dollars per kilovar.
\$/KW	dollars per kilowatt.
\$/KWH	dollars per kilowatt hour.

QR DATA DICTIONARY—APPENDIX F.
RATE UNITS—Continued

Rate units	Definition
\$/KW-DAY	dollars per kilowatt day.
\$/KW-MO	dollars per kilowatt month.
\$/KW-WK	dollars per kilowatt week.
\$/KW-YR	dollars per kilowatt year.
\$/MW	dollars per megawatt.
\$/MWH	dollars per megawatt hour.
\$/MW-DAY	dollars per megawatt day.
\$/MW-MO	dollars per megawatt month.
\$/MW-WK	dollars per megawatt week.
\$/MW-YR	dollars per megawatt year.
\$/MVAR-YR	dollars per megavar year.
\$/RKVA	dollars per reactive kilovar amperes.
CENTS	cents.
CENTS/KVR	cents per kilovolt amperes.
CENTS/KWH	cents per kilowatt hour.
FLAT RATE	rate not specified in any other units.

[FR Doc. E8-4753 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. IN06-3-003]

Energy Transfer Partners, L.P., Energy Transfer Company, ETC Marketing Ltd., Houston Pipeline Company, Oasis Pipeline, L.P., Oasis Pipeline Company Texas, L.P., ETC Texas Pipeline Ltd., Oasis Division; Supplemental Notice of Designation of Commission Staff

March 3, 2008.

On December 20, 2007, a notice was issued designating the staff of the Office of Enforcement as non-decisional in deliberations by the Commission in this docket, with certain limited exceptions. Exceptions to this designation are the Director of the Office of Enforcement and the Directors of the Divisions of Investigations, Energy Market Oversight, Audits, and Financial Regulation in the Office of Enforcement. This supplemental notice designates Shauna Coleman, an attorney in the Division of Investigations, Office of Enforcement, as an exception to the designation of the staff of the Office of Enforcement as non-decisional. Ms. Coleman joined the Commission after the December 27, 2007 notice was issued and did not participate in the investigation at issue in this proceeding.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-4731 Filed 3-10-08; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2004-0228; FRL-8540-9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting and Recordkeeping Activities Associated With EPA's PFC Reduction/Climate Partnership for the Semiconductor Industry EPA ICR No. 1823.03, OMB Control No. 2060-0382

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on March 31,

2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0228 by one of the following methods:

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

- *E-mail:* a-and-r-Docket@epa.gov

- *Fax:* 202 566-9744

- *Mail:* Docket ID No. EPA-HQ-OAR-2004-0228, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460

- *Hand Delivery:* EPA Docket Center, 1301 Constitution Ave. NW., Room 3334, Washington, DC 20460 (Attention Docket EPA-HQ-OAR-2004-0082). Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0228. 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>.

FOR FURTHER INFORMATION CONTACT:

Scott Bartos, Office of Atmospheric Programs, Climate Change Division, 6207J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202 343-9167; fax number: 202 343-2202; e-mail address: bartos.scott@epa.gov.

SUPPLEMENTARY INFORMATION:**How Can I Access the Docket and/or Submit Comments?**

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2004-0228, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742.

Use <http://www.regulations.gov> to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

In What Information Is EPA Particularly Interested?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

To What Information Collection Activity or ICR Does This Apply?

[Docket ID No. EPA-HQ-OAR-2004-0228]

Affected entities: Entities potentially affected by this action are manufacturers of semiconductors and related devices.

Title: Reporting and Recordkeeping Activities Associated with EPA's PFC Reduction/Climate Partnership for the Semiconductor Industry.

ICR numbers: EPA ICR No. 1823.03, OMB Control No. 2060-0382.

ICR status: This ICR is currently scheduled to expire on 3/31/2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA

regulations is consolidated in 40 CFR part 9.

Abstract: The U.S. EPA's Office of Atmospheric Programs launched the PFC Reduction/Climate Partnership for the Semiconductor Industry in 1996. Perfluorinated compounds (PFCs) are the most potent greenhouse gases known with atmospheric lifetimes of up to 50,000 years. These unique chemical compounds are required during two critical manufacturing steps; plasma etching and CVD chamber cleaning. EPA's partnership uses a pollution prevention approach to reduce greenhouse gas emissions and tracks progress by collecting annual PFC emissions estimates from voluntary participants.

EPA's semiconductor industry partners share information on technically feasible emission reduction strategies and EPA recognizes companies for their success in reducing PFC emissions through certificates, awards, and assistance in communicating their achievements with the public. In 2003, EPA's semiconductor industry partners were recognized for their commitment and ongoing efforts to protect the climate as participants in the White House's Climate VISION initiative. All semiconductor manufacturers operating in the U.S. are invited to join the partnership. Participation in the program begins by completing a Memorandum of Understanding that defines a voluntary agreement between the company and EPA. By joining the partnership, a company agrees to estimate and report its annual PFC emissions to EPA. A designated third party assembles the reported data and protects any confidential or sensitive information prior to EPA review. The partner companies' annual reports will provide an estimate of total PFC emissions and a description of the estimating method. The partnership will track progress as a group using the aggregate annual PFC emissions estimate.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 544 hours per participant. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information;

adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 21.

Frequency of response: Annual emissions reporting.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 11,426 hours.

Average annual burden hours per participant: 544 hours.

Estimated total annual costs: \$1,054,780. This includes an estimated burden cost of \$938,461 and an estimated cost of \$116,319 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is no change in the total estimated respondent burden hours compared with that identified in the ICR currently approved by OMB. The estimated annual burden cost has increased by \$98,997 reflecting updated labor compensation rates from the U.S. Department of Labor.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: March 5, 2008.

Dina Kruger,

Director, Climate Change Division.

[FR Doc. E8-4797 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**[FRL-8540-8]****Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC) Notification of a Public Teleconference of the Carbon Monoxide NAAQS Review Panel****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) Review Panel (CASAC Panel) to conduct a consultation on EPA's *Draft Integrated Plan for Review of the Primary National Ambient Air Quality Standards for Carbon Monoxide (March 2008)*.

DATES: The CASAC Panel will meet by public telephone from 1 p.m. to 5 p.m. (Eastern Time) on Tuesday, April 8, 2008.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain further information concerning this public teleconference may contact: Ms. Kyndall Barry, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343-9868; fax: (202) 233-0643; or e-mail at: barry.kyndall@epa.gov. General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at: <http://www.epa.gov/sab/>.

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality

criteria and the NAAQS for the six "criteria" air pollutants, including carbon monoxide. EPA is currently reviewing the primary (health-based) NAAQS for CO. The current primary NAAQS for CO was first promulgated in 1971 and retained in 1985 and 1994. The purpose of this public teleconference meeting of the CASAC CO Review Panel is to provide consultative advice on the Agency's *Draft Integrated Plan for Review of the Primary National Ambient Air Quality Standards for Carbon Monoxide (March 2008)*. Background information about the CASAC CO review activities and about the formation of the CASAC CO Panel was published in the **Federal Register** on October 12, 2007 (72 FR 58078-58080).

Availability of Meeting Materials: The *Draft Integrated Plan for Review of the Primary National Ambient Air Quality Standards for Carbon Monoxide (March 2008)* will be available on the EPA's Web site at: http://www.epa.gov/ttn/naaqs/standards/co/s_co_index.html. For questions and information regarding the Agency's draft document, please contact Ms. Chris Trent at (919) 541-5337 or trent.chris@epa.gov. The agenda and other materials for this CASAC teleconference will be posted on the SAB Web site at: <http://www.epa.gov/sab/> prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Ms. Barry, DFO, in writing (preferably via e-mail), by April 1, 2008, at the contact information noted above, to be placed on the list of public speakers for this meeting.

Written Statements: Written statements should be received in the SAB Staff Office by the same date, so that the information may be made available to the CASAC Panel for its consideration prior to this teleconference. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via e-mail (acceptable file formats: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Ms. Barry at

the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 4, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8-4825 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**[FRL-8540-7]****Science Advisory Board Staff Office; Notification of a Public Teleconference Meeting of the EPA Clean Air Scientific Advisory Committee CASAC Ozone Review Panel****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference meeting of the Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel (Panel) to hold follow-on discussions concerning the Final Rule for the National Ambient Air Quality Standards (NAAQS) for ozone.

DATES: The teleconference meeting will be held on Friday, March 28, 2008, from 1 p.m. to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain the teleconference meeting call-in number and access code; submit a written or brief oral statement (three minutes or less); or receive further information concerning this teleconference meeting, must contact Mr. Fred Butterfield, Designated Federal Officer (DFO). Mr. Butterfield may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail: 202-343-9994; fax: 202-233-0643; or e-mail at: butterfield.fred@epa.gov. General information concerning the CASAC or the SAB can be found on the EPA Web site at: <http://www.epa.gov/casac> or <http://www.epa.gov/sab>, respectively.

SUPPLEMENTARY INFORMATION:

Background: The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent

scientific advisory committee. The CASAC provides advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Ozone Review Panel consists of the seven CASAC members supplemented by subject-matter-experts. The Panel provides advice and recommendations to EPA concerning ground-level ozone and related photochemical oxidants in ambient air. The Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the National Ambient Air Quality Standards (NAAQS) for the six "criteria" air pollutants, including ambient ozone. Pursuant to sections 108 and 109 of the Act, EPA is in the process of reviewing the ozone NAAQS, which the Agency most recently revised in July 1997. The CASAC Ozone Review Panel last met in March 2007 to review the Agency's Final Ozone Staff Paper and, in particular, to offer additional, unsolicited advice to EPA on the chapters in this document concerning the primary (human health-related) and secondary (welfare effects-related) Ozone NAAQS. The purpose of such advice was to advise EPA as it developed its Proposed Rule for the NAAQS for ozone. The CASAC's letter to the Administrator from that teleconference review (EPA-CASAC-07-002, dated March 26, 2007) is posted on the CASAC's Web site at: <http://www.epa.gov/casac>. On June 20, 2007, EPA released the Proposed Rule for the NAAQS for Ozone.

The purpose of this teleconference meeting is for the Panel to hold follow-on discussions concerning the Final Rule for the NAAQS for ozone and, prospectively, to offer additional, unsolicited advice to the EPA Administrator on this final rule.

Technical Contact: Any questions concerning the Agency's Final Rule for the NAAQS for ozone should be directed to Dr. David McKee, EPA Office of Air Quality Planning and Standards (OAQPS), at phone: (919) 541-5288, or e-mail: mckee.dave@epa.gov.

Availability of Meeting Materials: EPA's Final Rule for the NAAQS for ozone will be posted on or before March 12, 2008 on the Agency's "Ground-level Ozone—Regulatory Actions" Web site at: <http://epa.gov/air/ozonepollution/actions.html>. A copy of the draft agenda

and other materials for this CASAC teleconference meeting will be posted on the SAB Web site at: <http://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/recentadditions> prior to the teleconference meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Ozone Review Panel to consider the topics included in this advisory activity and/or the group conducting the activity. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Mr. Butterfield, DFO, in writing (preferably via e-mail), by March 21, 2008, at the contact information noted above, to be placed on the list of public speakers for this teleconference meeting. **Written Statements:** Written statements should be received in the SAB Staff Office by March 25, 2008, so that the information may be made available to the Panel for its consideration prior to this teleconference meeting. Written statements should be supplied to the DFO electronically via e-mail (acceptable file formats: Adobe PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the teleconference meeting, to give EPA as much time as possible to process your request.

Dated: March 5, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8-4826 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8540-6]

Science Advisory Board Staff Office; Notification of a Public Teleconference and Face-to-Face Meeting of the Drinking Water Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board

(SAB) Staff Office announces two meetings of the SAB Drinking Water Committee (DWC): A public teleconference to discuss the Waterborne Diseases—Measures to Link Drinking Water Programs to Public Health Outcomes (Measures) and a face-to-face meeting to review Drinking Water Contaminant Candidate List 3 (CCL3) Draft document.

DATES: The SAB will hold the public teleconference on April 2, 2008. The teleconference will begin at 1 p.m. and end at 5 p.m. (Eastern Time). A face-to-face meeting will be held on April 23, 2008 from 9 a.m. to 5 p.m. (Eastern Time) and will continue on April 24, 2008 from 9 a.m. to 1 p.m. (Eastern Time).

ADDRESSES: The April 2, 2008 teleconference will be conducted by phone only. The April 23–24, 2008 face-to-face meeting will be held at the SAB Conference Center, 1025 F Street, NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference or meeting should contact Dr. Sue Shallal, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343-9977; fax: (202) 233-0643; or e-mail at: shallal.suhair@epa.gov. General information concerning the EPA Science Advisory Board can be found on the SAB Web Site at: <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the EPA SAB Drinking Water Committee will hold a public teleconference to provide a consultation on the Waterborne Diseases—Measures to Link Drinking Water Programs to Public Health Outcomes document and a face-to-face meeting to review its Draft Drinking Water Contaminant Candidate List 3 document.

Background: EPA's Office of Water has requested that the SAB conduct a

consultation for its Waterborne Diseases—Measures to Link Drinking Water Programs to Public Health Outcomes (Measures) and review its Draft Drinking Water Contaminant Candidate List 3 (CCL3) document.

Measures—EPA's Office of Water (OW) produced a draft Measure Development Plan in October, 2004. The purpose of the plan is to develop long-term measures that describe changes over time of disease due to drinking water contamination or changes in the occurrence of indicators of waterborne disease. The objective of the measures is to demonstrate the effectiveness of drinking water programs on epidemic and endemic, acute and chronic disease related to microbes or other water contaminants. The SAB is being asked to comment on the effectiveness of this plan to produce outcome measures.

CCL3—The 1996 Safe Drinking Water Act amendments (SDWA) require EPA to (1) publish every five years a list of currently unregulated contaminants in drinking water that may pose risks (the Contaminant Candidate List or "CCL"), and (2) make determinations on whether or not to regulate at least five contaminants from that list on a staggered five year cycle. SDWA requires EPA to publish a new list of contaminants that are known or anticipated to occur in public water systems every five years. The first CCL (CCL1) was published or finalized on March 2, 1998 (63 FR 10273). CCL1 was developed based on the review by technical experts of readily available information and contained 50 chemicals and 10 microbial contaminants/groups. EPA consulted with the scientific community, including the Science Advisory Board, on a process for developing the first CCL. The second CCL (CCL2) was published on February 24, 2005 (70 FR 9071). CCL2 carried forward the remaining 51 chemical and microbial contaminants listed on CCL1. The Agency is evaluating data and research on these chemicals and microbes to make regulatory determinations on the contaminants listed CCL2. The draft CCL3 includes 93 chemicals or chemical groups and 11 microbiological contaminants. The EPA is seeking comment from the SAB DW on the draft CCL3, the approach used to develop the list, and other specific contaminants.

Availability of Meeting Materials: The meeting agendas and other materials including a link to the Office of Water's draft Measures document will be posted on the SAB Web Site at: (<http://www.epa.gov/sab>) in advance of the meeting. The CCL3 draft can be found at: <http://www.epa.gov/fedrgstr/EPA->

[WATER/2008/February/Day-21/w3114.pdf](http://www.epa.gov/fedrgstr/EPA-WATER/2008/February/Day-21/w3114.pdf). For questions and information concerning the Agency's documents, please contact Ms. Valerie Blank for Measures at 202-564-1720 or blank.valerie@epa.gov. Please contact Mr. Thomas Carpenter for CCL3 at 202-564-4885 or carpenter.thomas@epa.gov.

Procedures for Providing Public Input:

Interested members of the public may submit relevant written or oral information for the Drinking Water Committee to consider throughout the advisory process. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. At the face-to-face meeting, presentations will be limited to five minutes, with no more than a total of one hour for all speakers. To be placed on the public speaker list, interested parties should contact Dr. Sue Shallal, DFO, in writing (preferably via e-mail), by March 26, 2008 for the teleconference and by April 16, 2008 for the face-to-face meeting, at the contact information noted above. **Written Statements:** Written statements should be received in the SAB Staff Office by March 26, 2008, so that the information may be made available to the SAB for their consideration prior to the teleconference or by April 16, 2008 for their consideration prior to the face-to-face meeting. Written statements should be supplied to the DFO via e-mail to shallal.suhair@epa.gov (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Sue Shallal at (202) 343-9977 or shallal.suhair@epa.gov. To request accommodation of a disability, please contact Dr. Shallal preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 5, 2008.

Anthony F. Maciorowski,
Deputy Director, EPA Science Advisory Board
Staff Office.

[FR Doc. E8-4828 Filed 3-10-08; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a partially open meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Thursday, March 13, 2008 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEMS: Item No. 1: Local Cost Policy, OECD Rule Change.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FURTHER INFORMATION: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202-565-3957).

Howard A. Schweitzer,
General Counsel.

[FR Doc. 08-1005 Filed 3-6-08; 4:17 pm]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 4, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law No. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before May 12, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to PRA@fcc.gov. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418-2918 or send an e-mail to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0289.

Title: Section 76.76.601(a), Performance Tests; Section 76.1704(a)(b), Proof of Performance Test Data; Section 76.1705, Performance Tests (Channels Delivered); Section 76.1717, Compliance with Technical Standards.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents: 8,250.

Estimated Time per Response: 0.5-70 hours.

Frequency of Response:

Recordkeeping requirement; Semi-annual reporting requirement; Triennial reporting requirement; Third party disclosure requirement.

Total Annual Burden: 276,125 hours.

Total Annual Costs: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.601(b) requires the operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to exceed seven months), unless otherwise noted below. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in § 76.605(a) and shall be as follows:

(1) For cable television systems with 1,000 or more subscribers but with

12,500 or fewer subscribers, proof-of-performance tests conducted pursuant to this section shall include measurements taken at six (6) widely separated points. However, within each cable system, one additional test point shall be added for every additional 12,500 subscribers or fraction thereof (e.g., 7 test points if 12,501 to 25,000 subscribers; 8 test points if 25,001 to 37,500 subscribers, etc.). In addition, for technically integrated portions of cable systems that are not mechanically continuous (i.e., employing microwave connections), at least one test point will be required for each portion of the cable system served by a technically integrated microwave hub. The proof-of-performance test points chosen shall be balanced to represent all geographic areas served by the cable system. At least one-third of the test points shall be representative of subscriber terminals most distant from the system input and from each microwave receiver (if microwave transmissions are employed), in terms of cable length. The measurements may be taken at convenient monitoring points in the cable network: Provided, that data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of the qualifications of the person performing the tests shall also be included.

(2) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in § 76.605(a) (3), (4), and (5) shall be made on each of the NTSC or similar video channels of that system. Unless otherwise as noted, proof-of-performance tests for all other standards in § 76.605(a) shall be made on a minimum of four (4) channels plus one additional channel for every 100 MHz, or fraction thereof, of cable distribution system upper frequency limit (e.g., 5 channels for cable television systems with a cable distribution system upper frequency limit of 101 to 216 MHz; 6 channels for cable television systems with a cable distribution system upper frequency limit of 217-300 MHz; 7 channels for cable television systems with a cable distribution upper frequency limit to 300 to 400 MHz, etc.). The channels selected for testing must be representative of all the channels within the cable television system.

(3) The operator of each cable television system shall conduct semi-

annual proof-of-performance tests of that system, to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(4) as follows. The visual signal level on each channel shall be measured and recorded, along with the date and time of the measurement, once every six hours (at intervals of not less than five hours or no more than seven hours after the previous measurement), to include the warmest and the coldest times, during a 24-hour period in January or February and in July or August.

(4) The operator of each cable television system shall conduct triennial proof-of-performance tests of its system to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(11).

47 CFR 76.601 states prior to additional testing pursuant to Section 76.601(c), the local franchising authority shall notify the cable operator, who will then be allowed thirty days to come into compliance with any perceived signal quality problems which need to be corrected.

47 CFR 76.1704 requires that proof of performance test required by 47 CFR Section 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request. If a signal leakage log is being used to meet proof of performance test recordkeeping requirement in accordance with Section 76.601, such a log must be retained for the period specified in 47 CFR Section 76.601(d).

47 CFR 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

47 CFR 76.1717 states that an operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8-4814 Filed 3-10-08; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and renewal of three information collections titled: (1) Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending); (2) Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing); and (3) Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

DATES: Comments must be submitted on or before April 10, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods. All comments should refer to the name of the collection as well as the OMB control number(s):

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- E-mail: comments@fdic.gov

Include the name of the collection in the subject line of the message.

- Mail: Leneta G. Gregorie (202-898-3719), Counsel, Room F-1064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

Comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503. Submissions to the OMB may also be faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation Z (Truth in Lending).

OMB Number: 3064-0082.

Frequency of Response: On occasion.

Affected Public: State nonmember banks that regularly offer or extend consumer credit.

Estimated Number of Respondents: 5,200.

Estimated Time per Response: 491.11 hours.

Total Annual Burden: 2,553,775 hours.

General Description of Collection: Regulation Z (12 CFR 226), issued by the Board of Governors of the Federal Reserve System, prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts.

2. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).

OMB Number: 3064-0083.

Frequency of Response: On occasion.

Affected Public: State nonmember banks engaging in consumer leasing.

Estimated Number of Respondents: 2,000.

Estimated Time per Response: 75 hours.

Total Annual Burden: 150,000 hours.

General Description of Collection: Regulation M (12 CFR 213), issued by the Board of Governors of the Federal Reserve System, implements the consumer leasing provisions of the Truth in Lending Act.

3. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

OMB Number: 3064-0085.

Frequency of Response: On occasion.

Affected Public: State nonmember banks engaging in credit transactions.

Estimated Number of Respondents: 5,200.

Estimated Time per Response: 135.16 hours.

Total Annual Burden: 702,832 hours.

General Description of Collection: Regulation B (12 CFR 202), issued by the Board of Governors of the Federal Reserve System, prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires creditors to give applicants a written notification of rejection of an application.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 6th day of March, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8-4756 Filed 3-10-08; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL MARITIME COMMISSION

[Docket No. 08-01]

Nathan Freeman v. Mediterranean Shipping Co. S.A. and Shipco Transport, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Nathan Freeman. Complainant asserts that he is an individual residing in New York, New York. Complainant alleges that Respondent, Mediterranean Shipping Company S.A. ("MSC"), is an ocean common carrier with an office in New York, New York, and that Respondent, Shipco Transport, Inc. ("Shipco"), is a non-vessel-operating common carrier with offices in Bayonne, New Jersey and North Charleston, South Carolina.

Complainant asserts that he engaged a freight forwarder to arrange for the transportation of a shipment consisting of two containers of scrap plastic, and that the forwarder engaged Respondent Shipco to carry such shipment from Jacksonville, Florida to the port of

Cotonou, Benin. Complainant also asserts that Shipco, in turn, arranged with Respondent MSC to carry Complainant's shipment. Complainant avers that his shipment arrived at the port of Cotonou, Benin on or about July 6, 2006. Complainant claims that, from approximately June 2006 to November 2006, his customs broker in Cotonou and Complainant's wife, Christiane Freeman, the designated consignee of the shipment and resident of Cotonou, made numerous demands to Respondents and their agents to provide the original bill of lading for Complainant's shipment. Complainant contends that Respondents refused to issue the original bill of lading.

Complainant Freeman asserts that the port of Cotonou officials require production of an original bill of lading prior to releasing the shipment to Complainant, his wife, or his customs broker, and that Respondents knew, or should have known, of this requirement. Complainant also asserts that MSC wrongfully claimed that Complainant owed MSC approximately \$20,000 for demurrage charges in connection with Complainant's shipment and that MSC refused to release the shipment unless payment of the alleged demurrage was made. Complainant claims that, in November 2006, the port of Cotonou customs officials "confiscated and seized" Complainant's shipment due to Complainant's inability to acquire from Respondents the original bill of lading necessary to take possession of the shipment.

Complainant alleges that Respondents violated the Shipping Act of 1984 ("the Shipping Act") by refusing to issue an original bill of lading to Complainant thereby preventing Complainant from taking possession of the shipment, and that Respondents' refusal directly caused Complainant's loss of his entire shipment and property. Complainant also alleges that Respondents "unreasonably, fraudulently and deceitfully attempted to extort alleged demurrage charges" from Complainant in January 2007, even though Respondents knew, or should have known, that the shipment had been previously confiscated by the port of Cotonou customs officials. Complainant asserts that the foregoing activities by Respondents constitute an unreasonable practice related to the delivery of property in violation of 46 U.S.C. 41102(c) (formerly § 10(d)(1) of the Shipping Act).

Complainant claims that he has been injured and damaged in the sum of \$80,000.00 for the value of the property of the shipment and seeks this amount as reparations, or in the event of

insufficient evidence of such loss, seeks \$21,367.00 as reimbursement of ocean freight, other shipment charges, and cost of the property. Complainant also seeks an award of reasonable attorney's fees and punitive damages, to be determined by the Commission, for the willful, wrongful, and illegal conduct of Respondents in their refusal to issue an original bill of lading and release Complainant's property.

Complainant requests that the Commission require Respondents to: (1) Answer the charges in the subject complaint; (2) cease and desist from the aforesaid violation of the Shipping Act; (3) establish and put in force such practices as the Commission determines to be lawful and reasonable; and (4) pay to Complainant by way of reparations the sum of \$80,000.00 with interest, attorney's fees and punitive damages, or such other sum as the Commission determines. Additionally, Complainant requests that the Commission issue further order(s) as it determines to be proper.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by March 5, 2009, and the final decision of the Commission shall be issued by July 3, 2009.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8-4860 Filed 3-10-08; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 26, 2008.

A. Federal Reserve Bank of Kansas City (Todd Offenbacher, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Steven Craig Baggerly, individually, as co-trustee of the Max Baggerly Marital Trust and as trustee of the Employee Stock Ownership Plan for Employees of Bank of the Panhandle; the Max Baggerly Trust*, all of Guymon, Oklahoma, together with Karen Ann Baggerly, Lubbock, Texas, Marc Lee Williamson and Camille Kay Williamson, both of Fredericksburg, Texas; all as a group acting in concert, to acquire control of Panhandle Bancshares, Inc., and thereby indirectly acquire control of Bank of the Panhandle, both in Guymon, Oklahoma.

Board of Governors of the Federal Reserve System, March 6, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8-4774 Filed 3-10-08; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, March 17, 2008.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave

Skidmore, Assistant to the Board, Office of Board Members at 202-452-2955.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, March 7, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 08-1011 Filed 3-7-08; 2:22 pm]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Monday, May 5, 2008 and Tuesday, May 6, 2008. The meeting will be held from 9 a.m. to approximately 5 p.m. on both days.

ADDRESSES: Department of Health and Human Services; Room 800 Hubert H. Humphrey Building; 200 Independence Avenue, SW.; Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Dr. Anand K. Parekh, Executive Secretary, Chronic Fatigue Syndrome Advisory Committee; Department of Health and Human Services; 200 Independence Avenue, SW., Room 727H; Washington, DC 20201; (202) 401-7605.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002. The Committee was established to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including (1) the current state of knowledge and research about the epidemiology and risk factors relating to

chronic fatigue syndrome, and identifying potential opportunities in these areas; (2) current and proposed diagnosis and treatment methods for chronic fatigue syndrome; and (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about chronic fatigue syndrome advances.

The agenda for this meeting is being developed. The agenda will be posted on the CFSAC Web site, <http://www.hhs.gov/advcomcfs>, when it is finalized.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the building where the meeting is scheduled to be held. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. The committee is very interested to hear about experiences that individuals with chronic fatigue syndrome have had interfacing with the medical community. In addition, the committee welcomes specific comments on issues surrounding chronic fatigue syndrome research, provider education, and quality of life. Individuals who wish to address the Committee during the public comment session must pre-register by May 1, 2008. Any individual who wishes to participate in the public comment session should call the telephone number listed in the contact information to register. Public comment will be limited to five minutes per speaker. Members of the public who wish to have printed material distributed to CFSAC members for discussion should submit, at a minimum, one copy of the material to the Executive Secretary, CFSAC prior to close of business on May 1, 2008. Contact information for the Executive Secretary, CFSAC is listed above.

Dated: March 5, 2008.

Anand K. Parekh,

Executive Secretary, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. E8-4791 Filed 3-10-08; 8:45 am]

BILLING CODE 4150-42-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Human Research Protections

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its fifteenth meeting. The meeting will be open to the public.

DATES: The meeting will be held on Thursday, March 27, 2008 from 8:30 a.m. until 4:30 p.m. and Friday, March 28, 2008 from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The Sheraton National Hotel, 900 South Orme Street, Arlington, Virginia 22204. Phone: 703-521-1900.

FOR FURTHER INFORMATION CONTACT: Ivor Pritchard, Ph.D., Acting Director, Office for Human Research Protections (OHRP), or Kevin Prohaska, D.O., M.P.H., Acting Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; 240-453-8231; fax: 240-453-6909; e-mail address: sachrp@osophs.dhhs.gov.

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On March 27, 2008 SACHRP will receive and discuss a report from the Subcommittee on Inclusion of Individuals with Impaired Decision-Making in Research. The Subcommittee on Inclusion of Individuals with Impaired Decision-Making in Research is charged with developing recommendations for consideration by SACHRP about whether guidance and/or additional regulations are needed for research involving individuals with impaired decision-making capacity. This Subcommittee was formed as a result of discussions during the July 31-August 1, 2006 SACHRP meeting. In addition, an invited panel will discuss common designs associated with quality improvement, quality assurance, and

health services activities, as well as ethical considerations that may be relevant to such activities.

On March 28, 2008 the Committee will receive and discuss reports from an ad hoc subcommittee and from the Subpart A Subcommittee. The ad hoc subcommittee was established after the October 29–30, 2007 meeting of SACHRP to consider recommendations relative to encouraging diversity in clinical trials and conducting research in the disaster setting. The Subpart A Subcommittee is charged with developing recommendations for consideration by SACHRP about the application of Subpart A of 45 CFR part 46 in the current research environment. This subcommittee was established by SACHRP at its October 4–5, 2006 meeting.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Acting Executive Director, SACHRP, prior to the close of business Monday, March 17, 2008. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at: <http://www.hhs.gov/ohrp/sachrp/index.html>.

Dated: March 5, 2008.

Ivor A. Pritchard,

Acting Director, Office for Human Research Protections, Acting Executive Secretary, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. E8–4793 Filed 3–10–08; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the

use of automated collection techniques or other forms of information technology.

Proposed Project: Data Collection Tool for State Offices of Rural Health Grant Program: (New)

The mission of the Office of Rural Health Policy (ORHP) is to sustain and improve access to quality care services for rural communities. In its authorizing language (Sec. 711 of the Social Security Act [42 U.S.C. 912]), Congress charged ORHP with administering grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health care in rural areas.

In accordance with the Public Health Service Act, section 338J, 42 U.S.C. 254r, HRSA proposes to revise the State Offices of Rural Health Grant Program—Guidance and Forms for the Application. The guidance is used annually by 50 States in writing applications for grants under the State Offices of Rural Health Grant Program (SORH) and in preparing the required report.

ORHP seeks to expand the information gathered from grantees on their efforts to provide technical assistance to clients within their State. SORH grantees would be required to submit a Technical Assistance Report that includes: (1) The total number of technical assistance encounters provided directly by the grantee; and, (2) the total number of clients that received direct technical assistance from the grantee. Submission of the Technical Assistance Report would be done via e-mail to ORHP no later than 30 days after the end of each twelve-month budget period.

The estimated average annual burden is as follows:

Form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Technical Assistance Report	50	1	12.5	562.5
Total	50			562.5

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Written comments should be received within 60 days of this notice.

Dated: March 4, 2008.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E8–4787 Filed 3–10–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Office of Biotechnology Activity; Recombinant DNA Research; Notice of a Meeting of an NIH Blue Ribbon Panel

There will be a meeting of the NIH Blue Ribbon Panel to advise on the Risk Assessment of the National Emerging Infectious Disease Laboratory at Boston University Medical Center. The meeting will be held on Thursday, March 13, 2008, at the National Institutes of Health, Building 1, Wilson Hall, 1 Center Drive, Bethesda, Maryland 20892, from 8:30 a.m. to approximately 2 p.m.

Discussion will include the charge to the Panel, an overview of the principles of environmental protection laws, and risk assessment studies.

For further information concerning this meeting contact Ms. Laurie Lewallen, Advisory Committee Coordinator, Office of Biotechnology Activities, Office of the Director, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892–7985, 301–496–9838, lewalla@od.nih.gov.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed above in advance of the meeting. Any interested person may file written comments with the panel by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be

inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

An agenda and any additional information for the meeting will be posted on the agency's Web site: <http://www.nih.gov/about/director/acd/index.htm>.

Background information may be obtained by contacting NIH OBA by e-mail oba@od.nih.gov.

Dated: March 4, 2008.

Amy P. Patterson,

Director, Office of Biotechnology Activities.

[FR Doc. E8–4849 Filed 3–10–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel K01 SEP—Teleconference.

Date: March 31, 2008.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: John R. Glowa, PhD, Scientific Review Officer, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1078, MSC 4874, Bethesda, MD 20892–4874, 301–435–0807, glowaj@mail.nih.gov.

Name of Committee: National Center for Research Resources Special Emphasis Panel Human Tissue and Organ Program (HTOP) SEP.

Date: April 1, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: John R. Glowa, PhD, Scientific Review Officer, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1078, MSC 4874, Bethesda, MD 20892–4874, 301–435–0807, glowaj@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: March 3, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–4565 Filed 3–10–08; 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; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Advanced Development of Multivalent Filovirus (Ebola and Marburg) Hemorrhagic Fever Vaccines.

Date: March 20, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Crowne Plaza Washington DC Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Lynn Rust, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAD, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 402–3938, lr228v@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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 3, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8-4564 Filed 3-10-08; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2008-0168]

Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) Charter Renewal.

AGENCY: Coast Guard, DHS.

ACTION: Notice of recertification.

SUMMARY: The purpose of this notice is to inform the public that the Coast Guard has recertified the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) as an alternative voluntary advisory group for Prince William Sound, Alaska. This certification allows the PWSRCAC to monitor the activities of terminal facilities and crude oil tankers under the Prince William Sound Program established by statute.

DATES: This recertification is effective for the period from February 29, 2008 through February 28, 2009.

FOR FURTHER INFORMATION CONTACT: Commander, Seventeenth Coast Guard District (dpi), by phone at (907) 463-2821, or by mail at P.O. Box 25517, Juneau, Alaska 99802.

SUPPLEMENTARY INFORMATION:

Background and Purpose

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

On October 18, 1991, the President delegated his authority under 33 U.S.C. 2732(o) to the Secretary of Transportation in Executive Order 12777, section 8(g) (see 56 FR 54757;

October 22, 1991) for purposes of certifying advisory councils, or groups, subject to the Act. On March 3, 1992, the Secretary redelegated that authority to the Commandant of the USCG (see 57 FR 8582; March 11, 1992). The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G-M) on March 19, 1992 (letter #5402).

On July 7, 1993, the USCG published a policy statement, 58 FR 36504, to clarify the factors that shall be considered in making the determination as to whether advisory councils, or groups, should be certified in accordance with the Act.

The Assistant Commandant for Marine Safety and Environmental Protection (G-M), redelegated recertification authority for advisory councils, or groups, to the Commander, Seventeenth Coast Guard District on February 26, 1999 (letter #16450).

On September 16, 2002, the USCG published a policy statement, 67 FR 58440, that changed the recertification procedures such that applicants are required to provide the USCG with comprehensive information every three years (triennially). For each of the two years between the triennial application procedure, applicants submit a letter requesting recertification that includes a description of any substantive changes to the information provided at the previous triennial recertification. Further, public comment is not solicited prior to recertification during streamlined years, only during the triennial comprehensive review.

The Alyeska Pipeline Service Company pays the PWSRCAC \$2.9 million annually in the form of a longterm contract. In return for this funding, the PWSRCAC must annually show that it "fosters the goals and purposes" of OPA 90 and is "broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound." The PWSRCAC is an independent, nonprofit organization founded in 1989. Though it receives Federal oversight like many independent, non-profit organizations, it is not a Federal agency. The PWSRCAC is a local organization that predates the passage of OPA 90. The existence of the PWSRCAC was specifically recognized in OPA 90 where it is defined as an "alternate voluntary advisory group."

Alyeska funds the PWSRCAC, and the Coast Guard makes sure the PWSRCAC operates in a fashion that is broadly consistent with OPA 90.

Discussion of Comments

On January 24, 2008 the USCG published a Notice of Availability; request for comments for recertification of Prince William Sound Regional Citizens' Advisory Council in the **Federal Register** (73 FR 4251). We received 16 letters commenting on the proposed action. No public meeting was requested, and none was held. Of the 16 comments received, all 16 were positive. These letters in support of the recertification consistently cited PWSRCAC's broad representation of the respective community's interests, appropriate actions to keep the public informed, improvements to both spill response preparation and spill prevention, and oil spill industry monitoring efforts that combat complacency—as intended by the Act.

Recertification: By letter dated February 27, 2008, the Commander, Seventeenth Coast Guard District certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on February 28, 2009.

Dated: February 28, 2008.

Arthur E. Brooks,

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

[FR Doc. E8-4820 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2007-0004]

Random Drug Testing Rate for Covered Crewmembers

AGENCY: Coast Guard, DHS.

ACTION: Notice of minimum random drug testing rate.

SUMMARY: The Coast Guard has set the calendar year 2008 minimum random drug testing rate at 50 percent of covered crewmembers.

DATES: The minimum random drug testing rate is effective January 1, 2008 through December 31, 2008. Marine employers must submit their 2007 Management Information System (MIS) reports no later than April 15, 2008.

ADDRESSES: Annual MIS reports may be submitted to Commandant (CG-545), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Room 2404, Washington, DC 20593-0001 or by electronic submission to the following Internet address: <http://homeport.uscg.mil/Drugtestreports>.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Robert C. Schoening, Drug and Alcohol Program Manager, Office of Investigations and Casualty Analysis (CG-545), U.S. Coast Guard Headquarters, telephone 202-372-1033. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: Under 46 CFR 16.230, the Coast Guard requires marine employers to establish random drug testing programs for covered crewmembers on inspected and uninspected vessels.

Every marine employer is required by 46 CFR 16.500 to collect and maintain a record of drug testing program data for each calendar year, and submit this data by 15 March of the following year to the Coast Guard in an annual MIS report. Marine employers may either submit their own MIS reports or have a consortium or other employer representative submit the data in a consolidated MIS report.

The purpose of setting a minimum random drug testing rate is to assist the Coast Guard in analyzing its current approach for deterring and detecting illegal drug abuse in the maritime industry. The testing rate for calendar year 2007 is 50 percent.

The Coast Guard may lower this rate if, for two consecutive years, the drug test positive rate is less than 1.0 percent, in accordance with 46 CFR 16.230(f)(2).

Since 2006 MIS data indicates that the positive rate is greater than one percent industry-wide (1.31 percent), the Coast Guard announces that the minimum random drug testing rate will continue at 50 percent of covered employees for the period of January 1, 2008 through December 31, 2008 in accordance with 46 CFR 16.230(e).

Each year, the Coast Guard will publish a notice reporting the results of random drug testing for the previous calendar year's MIS data and the minimum annual percentage rate for random drug testing for the next calendar year.

Dated: March 3, 2008.

James A. Watson,
Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. E8-4800 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1744-DR]

Arkansas; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA-1744-DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 27, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kenneth M. Riley, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Philip E. Parr as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,
Administrator, Federal Emergency Management Agency.

[FR Doc. E8-4777 Filed 3-10-08; 8:45 am]

BILLING CODE 9110-10-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-1741-DR]

Kansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA-1741-DR), dated February 1, 2008, and related determinations.

EFFECTIVE DATE: February 28, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 1, 2008.

Gove, Logan, Sheridan, Thomas, and Wallace Counties for Public Assistance. (The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,
Administrator, Federal Emergency Management Agency.

[FR Doc. 08-997 Filed 3-10-08; 8:45 am]

BILLING CODE 9110-10-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[FEMA-1745-DR]

Tennessee; Amendment No. 3 to Notice of a Major Disaster Declaration**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA-1745-DR), dated February 7, 2008, and related determinations.

EFFECTIVE DATE: February 29, 2008.**FOR FURTHER INFORMATION CONTACT:**

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 2008.

Fentress County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8-4783 Filed 3-10-08; 8:45 am]

BILLING CODE 9110-10-P**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Tuna—Tariff-Rate Quota; The Tariff-Rate Quota for Calendar Year 2008 Tuna Classifiable Under Subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS)****AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.**ACTION:** Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2008.

SUMMARY: Each year the tariff-rate quota for tuna described in subheading 1604.14.22, HTSUS, is based on the apparent United States consumption of tuna in airtight containers during the preceding Calendar Year. This document sets forth the tariff-rate quota for Calendar Year 2008.

EFFECTIVE DATES: The 2008 tariff-rate quota is applicable to tuna entered or withdrawn from warehouse for consumption during the period January 1, through December 31, 2008.

FOR FURTHER INFORMATION CONTACT:

Headquarters Quota Branch, Textile/Apparel Policy and Programs Division, Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229, (202) 863-6560.

Background

It has been determined that 17,667,724 kilograms of tuna in air-tight containers may be entered and withdrawn from warehouse for consumption during the Calendar Year 2008, at the rate of 6 percent ad valorem under subheading 1604.14.22, HTSUS. Any such tuna which is entered or withdrawn from warehouse for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: March 6, 2008.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E8-4806 Filed 3-10-08; 8:45 am]

BILLING CODE 9111-14-P**DEPARTMENT OF THE INTERIOR****Office of the Secretary****Renewal of the Sporting Conservation Council****AGENCY:** Office of the Secretary, Interior.**ACTION:** Notice of renewal.

SUMMARY: This notice is published in accordance with section 9a(2) of the Federal Advisory Committee Act. Following consultation with the General Services Administration, the Secretary of the Interior hereby renews the Sporting Conservation Council for 2 years.

DATES: The Council's charter will be filed under the Act March 26, 2008.

FOR FURTHER INFORMATION CONTACT:

Phyllis T. Seitts, 602-906-5603.

SUPPLEMENTARY INFORMATION: The Council provides advice and guidance to the Federal Government through the Department of the Interior and the Department of Agriculture on how to increase public awareness of the importance of wildlife resources and the social and economic benefits of recreational hunting. The purpose of the Council is to advise the Secretary of the Interior and the Secretary of Agriculture about wildlife conservation endeavors that benefit recreational hunting and wildlife resources and that encourage partnerships among the public, the sportsman conservation community, and Federal and State Governments.

Council membership includes representatives from State fish and wildlife agencies, game bird hunting organizations, wildlife conservation organizations, big game hunting organizations, and the hunting community.

The Council functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The certification is published below.

Certification

I hereby certify that the renewal of the Sporting Conservation Council is necessary and in the public interest in connection with the performance of duties by the Department of the Interior mandated pursuant to 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j).

Dated: February 29, 2008.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8-4857 Filed 3-10-08; 8:45 am]

BILLING CODE 4310-55-P

INTERNATIONAL TRADE COMMISSION**[USITC SE-08-004]****Sunshine Act Meeting Notice****AGENCY HOLDING THE MEETING:** United States International Trade Commission.**TIME AND DATE:** March 14, 2008 at 11 a.m.**PLACE:** Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205-2000.**STATUS:** Open to the public.**MATTERS TO BE CONSIDERED:**

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701-TA-454 and 731-TA-1144 (Preliminary) (Welded Stainless Steel Pressure Pipe from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before March 17, 2008; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before March 24, 2008.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

By order of the Commission.

Issued: March 4, 2008.

William R. Bishop,*Hearings and Meetings Coordinator.*

[FR Doc. E8-4763 Filed 3-10-08; 8:45 am]

BILLING CODE 7020-02-P**DEPARTMENT OF JUSTICE****Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act**

Notice is hereby given that on January 25, 2008, a proposed consent decree in *United States v. Reynolds Metals Company, et al.*, Civil Action No. 08-108-KI, was lodged with the United States District Court for the District of Oregon.

In this action the United States sought injunctive relief, response costs and natural resource damages for releases of hazardous substances at the Reynolds Metals Superfund Site near Troutdale, Oregon. The decree provides that defendants will implement remedial action at the Site and pay \$501,370 in past response costs, as well as pay

future response costs. In addition, defendants will complete natural resource restoration actions they are undertaking at the Site and pay \$21,120 in natural resource damage assessment costs.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *United States v. Reynolds Metals Company, et al.*, Civil Action No. 08-108-KI, D.J. Ref. No. 90-11-3-08697.

The decree may be examined at the Office of the United States Attorney, 1000 SW. Third Avenue, Suite 600, Portland, Oregon 97204. During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree 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 \$21.50 for the decree only or \$71.00 for the decree with attachments (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E8-4784 Filed 3-10-08; 8:45 am]

BILLING CODE 4410-15-P**DEPARTMENT OF JUSTICE****Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act**

Notice is hereby given that on March 4, 2008, the United States moved to reopen *United States v. Ruetgers Organics Corporation* (fka Ruetgers-Nease Corporation), No. 4-96-2128, in order to lodge a proposed "Agreement

and Order Regarding Modification of the Consent Decree to Include Reimbursement for Past and Future Oversight Costs" ("Modification Agreement"). The Modification Agreement amends the Consent Decree ("1997 Consent Decree") lodged on December 6, 1996, in the United States District Court for the Middle District of Pennsylvania and entered on January 2, 1997. The Modification Agreement is intended only to replace the provisions specifically referred to, essentially to include oversight costs within the definition of response costs. All other provisions of the 1997 Consent Decree remain in force.

The 1997 Consent Decree resolved the claims of the United States under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9606 and 9607, for past response costs and certain response actions at the Centre County Kepone Superfund Site in Centre County, Pennsylvania. The Modification Agreement obligates the Settling Defendant to reimburse the United States \$628,164.79 for additional United States' past response costs and to agree to reimbursement of future costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Modification Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Ruetgers Organics Corporation*, D.J. Ref. 90-11-3-1436.

The Modification Agreement may be examined at the Office of the United States Attorney in the Middle District of Pennsylvania at the William J. Nealon Federal Building and Courthouse, 235 N. Washington Ave., Suite 311, Scranton, PA 18503. It may also be examined at U.S. EPA Region III at 1650 Arch Street, Philadelphia, Pennsylvania 19103. During the public comment period, the Modification Agreement may also be examined on the following Department of Justice Web site http://www.usdoj.gov/enrd/Consent_Decrees.html.

A copy of the proposed Modification Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone

confirmation no. (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$4.75 (25 cents per page reproduction cost) payable to the "U.S. Treasury" or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. E8-4720 Filed 3-10-08; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 29, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the [RegInfo.gov](http://www.reginfo.gov/public/do/PRAMain) Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202-395-4816/Fax: 202-395-6974 (these are not toll-free numbers), e-mail: OIRA_submission@omb.eop.gov within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Examinations and Testing of Electrical Equipment Including Exam, Testing, and Maintenance of High Voltage Longwalls.

OMB Control Number: 1219-0116.

Form Number: None.

Estimated Number of Respondents: 917.

Estimated Total Annual Burden Hours: 760,553.

Estimated Total Annual Cost Burden: \$0.

Affected Public: Inadequate maintenance of electric equipment is a major cause of serious electrical accidents in the coal mining industry. Improperly maintained electric equipment has also been responsible for many disastrous mine fires and explosions. The Department's regulations at 30 CFR parts 75 and 77 contain recordkeeping requirements which may in some instances help operators in implementing an effective maintenance program. The subject records of tests and examinations are examined by coal miners, coal mine officials, and MSHA inspectors. MSHA inspectors examine the records to determine if the required tests and examinations have been conducted, to identify units of electric equipment that may pose a potential safety hazard, to determine the probable cause of accidents during accidents investigations, and to evaluate the effectiveness of the coal mine operator's electrical maintenance programs. By comparing the records with the actual condition of electric equipment, MSHA inspectors may in some cases be able to identify weaknesses in the coal mine operator's electrical maintenance programs and require that the weaknesses be corrected. For additional information, see related notice

published on December 20, 2007 at 72 FR 72390.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8-4678 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 5, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the [RegInfo.gov](http://www.reginfo.gov) Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316 / Fax: 202-395-6974 (these are not a toll-free numbers), e-mail: OIRA_submission@omb.eop.gov within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

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

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

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

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Underground Construction Standard (29 CFR 1926.800).

OMB Control Number: 1218-0067.

Agency Form Number: None.

Affected Public: Private Sector—Business or other for-profit.

Estimated Number of Respondents: 323.

Estimated Total Annual Burden Hours: 57,949.

Estimated Total Annual Costs Burden: \$117,000.

Description: The Department's regulations at 29 CFR 1926.800 require underground construction employers are required to certify hoist inspections; post various warning signs; and keep a record of air quality test results to identify decreasing oxygen levels or potentially hazardous concentrations of air contaminants and to take corrective action prior to attaining hazardous conditions. For additional information, see related notice published at 72 FR 71161 on December 14, 2007.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits.

OMB Control Number: 1218-0093.

Agency Form Numbers: None.

Affected Public: Private Sector—Business or other for-profits.

Estimated Number of Respondents: 801,837.

Estimated Total Annual Burden Hours: 197,819.

Estimated Total Annual Costs Burden: \$0.

Description: The Department's regulations at 29 CFR part 1926.50(f) require employers to post emergency telephone numbers at the worksite if the 911 emergency telephone service is not available. 29 CFR part 250(a)(2) requires that employers must post the maximum safe load limits of floors located in storage areas inside buildings or other structures unless the floors are on grade.

For additional information, see related notice published at 72 FR 71162 on December 14, 2007.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8-4703 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Hearing on Reasonable Contracts or Arrangements Under Section 408(b)(2)—Fee Disclosure

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of change to public hearing date.

SUMMARY: Notice is hereby given that the U.S. Department of Labor (the Department) is changing the date for the previously scheduled public hearing on the proposed regulation under section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA) and the related proposed class exemption. The notice that originally scheduled the public hearing for March 20, 2008, and March 21 (if necessary) was published in the **Federal Register** on February 27, 2008, at 73 FR 10405.

DATES: The hearing will now be held on March 31, 2008, and April 1 (if necessary), beginning at 9 a.m., EST.

ADDRESSES: The hearing will be held at the U.S. Department of Labor, Room S-4215 A-C, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Fil Williams, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693-8510. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Persons interested in presenting testimony and answering questions at this public hearing must submit, by 3:30 p.m., EST, March 20, 2008, the following information: (1) A written request to be heard; and (2) An outline of the topics to be discussed, indicating the time allocated to each topic. To facilitate the receipt and processing of responses, EBSA encourages interested persons to submit their requests and outlines electronically by e-mail to ORI@dol.gov. Persons submitting requests and outlines electronically are encouraged not to submit paper copies. Persons submitting requests and outlines on paper should send or deliver their requests and outlines to the Office

of Regulations and Interpretations, Employee Benefits Security Administration, Attn: 408(b)(2) Hearing, Rooms N-5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All requests and outlines submitted to the Department will be available to the public, without charge, online at <http://www.dol.gov/ebsa> and at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Note: Persons who requested the opportunity to testify at the March 20, 2008 hearing will be rescheduled for this hearing, unless the Department hears otherwise from the requestor. A new request to testify is not required by such persons.

The Department will prepare an agenda indicating the order of presentation of oral comments and testimony. In the absence of special circumstances, each presenter will be allotted ten (10) minutes in which to complete his or her presentation.

Any individuals with disabilities who may need special accommodations should notify Fil Williams on or before March 20, 2008.

Information about the agenda will be posted on <http://www.dol.gov/ebsa> on or after March 20, 2008, or may be obtained by contacting Fil Williams, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8510 (this is not a toll-free number).

Those individuals who make oral comments and testimonies at the hearing should be prepared to answer questions regarding their information and/or comments. The hearing will be transcribed.

Notice of Re-Scheduled Public Hearing

Notice is hereby given that the public hearing on the Department's proposed regulation under section 408(b)(2) of ERISA, and related proposed class exemption, has been re-scheduled for March 31, 2008, and April 1, if necessary. The hearing will be held beginning at 9 a.m. in Room S-4215 A-C of the U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue, NW., Washington DC, 20210.

Signed at Washington, DC, this 5th day of March, 2008.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E8-4658 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,608]

Precision Magnetics Division of Arnold Magnetics Technologies; Wayne, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated February 20, 2008, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of the subject firm. The determination was issued on February 4, 2008. The Notice of determination was published in the **Federal Register** on February 22, 2008 (73 FR 9836).

The determination was based on the Department's findings that, during the relevant period, the subject firm did not shift production of magnetic components and assemblies to a foreign country and did not import magnetic components and assemblies. The determination also stated that the workers' separations are attributable to a domestic shift of production.

The request for reconsideration alleges that the subject workers do not produce magnetic components and assemblies but produce magnets, magnet production shifted to China, the subject firm is likely to import magnets following the shift abroad, and the subject firm's customers have increased their magnet imports.

The Department has carefully reviewed the request for reconsideration and has determined that the Department will conduct further investigation.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

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

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4667 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Continuing Information Collection Request for the Unemployment Insurance (UI) Facilitation of Claimant Reemployment; Comment Request

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Department of Labor (Department) conducts a preclearance 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 the 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.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: <http://www.doleta.gov/OMBControlNumber.cfm>.

DATES: Submit comments to the office listed in the addressee section below on or before May 12, 2008.

ADDRESSES: Submit comments to Andrew W. Spisak, Office of Workforce Security, Employment and Training Administration, U. S. Department of Labor, Room S-4522, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: 202-693-3196 (this is not a toll-free number); fax: 202-693-3975; e-mail: spisak.andrew@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background: Required by Congress under the Government Performance and Results Act of 1993 (GPRA), the Department's Strategic Plan is an integral part of the budget process. Among the purposes of the GPRA are to improve Federal program effectiveness and public accountability by focusing on program results, service quality, and customer satisfaction.

Strategic Goal 4 in the Department's fiscal year (FY) 2006-2011 strategic plan—Strengthened Economic Protections—focuses on improving the operational performance and effectiveness of the federal/state UI program. Performance Goal 4A supports this goal with performance measures to “Make timely and accurate benefit payments to unemployed workers, facilitate the reemployment of unemployment insurance beneficiaries, and set up unemployment tax accounts promptly for new employers.”

ETA collects the data to measure the facilitation of reemployment of UI benefit recipients through the ETA 9047 report. OMB approved the Department's request to begin collecting UI reemployment data through the ETA 9047 report on July 26, 2005. ETA issued reporting instructions in Unemployment Insurance Program Letter (UIPL) No. 1-06 (October 6, 2005), and State Workforce Agencies began reporting data to ETA in March 2006.

Using the reemployment data submitted by the states through the ETA 9047 report, ETA calculated a baseline for the UI GPRA reemployment rate measure. In Training and Employment Guidance Letter (TEGL) No. 24-05 Change 1, ETA announced that the baseline reemployment rate was 62.4%, and set the FY 2007 GPRA Facilitate Reemployment goal at 65%. The TEGL also advised states that the development of a UI Performs measure “with a criterion by which to assess individual states” success in facilitating UI reemployment” was in progress.

Data Collection

Each calendar quarter, states report on the ETA 9047 report separate counts for individuals receiving their first UI payments who are exempt from work search/employment service registration (“exempt”), in most cases because they are job-attached with definite recall dates, and those who must conduct work search or register with the employment service (“nonexempt”).

States also report on the ETA 9047 report the number of those first payment recipients for whom intrastate or out-of-state employers reported wages in the subsequent quarter. States obtain these counts by running computer crossmatches of the Social Security Numbers (SSNs) of the claimants who received a first UI payment with the UI wage records for the subsequent calendar quarter. ETA issued instructions on obtaining out-of-state reemployment data through matching the SSNs of UI first payment recipients with UI wage records in the National

Directory of New Hires in UIPL No. 1–06, Change 1 (August 2, 2006).

A facsimile of the ETA 9047 report is shown below. Reporting instructions for the ETA 9047 report are found in ET

Handbook 401, 4th edition, section IV, chapter 7.

ETA 9047—EMPLOYMENT OF UI BENEFIT RECIPIENTS

State—Exemption Code	Region—Number of claimants receiving 1st payment	Report for period ending—	
		Number of Intrastate Crossmatch Hits: YYYY.Q+1	Number of Interstate Crossmatch Hits: YYYY.Q+1
0—Not Exempt			
1—Exempt			

Comments

OMB No.: 1205–0452.
OMB Expiration Date: 07/31/2008.
OMB Burden Minutes: 600.
OMB Burden Statement: In accordance with the Paperwork Reduction Act of 1995, the U.S. Office of Management and Budget has approved the reporting requirements for the ETA 9047 report under OMB approval No. 1205–0452 to expire July 31, 2008. The estimated reporting burden for this report is 10 hours.

UI Reemployment GPRA Measure

The UI reemployment GPRA measure is defined as the percentage of all UI claimants receiving a first payment in a calendar quarter who were paid wages in the following calendar quarter that appear in UI wage records.

ETA believes that this measure encourages the agencies that administer UI—which share responsibility with all Workforce Investment partners in facilitating the reemployment of UI

beneficiaries—to be innovative in the steps they take to facilitate these individuals' reemployment. Insights gained about the combinations of reemployment efforts and UI eligibility conditions that promote the quick return of UI beneficiaries to suitable work will be shared with state UI agencies.

The following table summarizes GPRA targets and performance for the UI reemployment measure.

GPRA TARGETS AND PERFORMANCE

Goal and indicator	FY 2006 target	FY 2006 actual	FY 2007 target	FY 2008 target
Facilitate Reemployment: Percent of UI claimants who were reemployed by the end of the first quarter after the quarter in which they received their first payment	*62.4	64.2	65.0	65.2

* Based on baseline data submitted March 2006.

II. Desired Focus of Comments: The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Actions: ETA issued UIPL No. 12–08 [February 13, 2008] to solicit comment on the proposed definition for the UI Performs core measure,

“Facilitate the Reemployment of UI Claimants” and the approach used for setting the Acceptable Level of Performance (ALP). We are proposing using the same definition for the UI Performs core measure as for the GPRA measure for purposes of consistency and its uniform application to all states.

ETA's analysis of the UI reemployment data show that state performance in reemployment of UI benefit recipients is influenced by forces outside the control of the agency administering the state UI law, most notably by the economic conditions in the state, as measured by the Total Unemployment Rate (TUR), and the percent of UI benefit recipients that are on temporary layoff, as measured by the percent of claimants who not required to search for work or register with the state employment service. The proposed ALP's for the UI Performs Core measure reflect state-specific data for these two factors. UIPL No. 12–08 includes a detailed explanation of the methodology used to develop the proposed ALP.

Type of Review: Extension without change.

Agency: Employment and Training Administration.

Title: Unemployment Insurance Facilitation of Claimant Reemployment.

Record keeping: Per ET Handbook 401, 4th edition, p. v, “source data supporting counts [reported] should be retained for at least three years.”

Affected Public: State Workforce Agencies (SWAs).

Frequency: Quarterly.

Total Respondents: 53 SWAs.

Total Responses: 212 per year (53 SWAs × 4 quarterly reports per year).

Estimated Time Per Response: SWA staff—10 hours.

Total Burden Hours: 2,120 hours.

Total Burden Cost (capital/startup): This is an established data collection for which no changes are proposed; there are no startup costs.

Total Burden Cost (operating/maintaining): \$77,168 (annual) (53 SWAs at \$1,456 per SWA).

Comments submitted in response to this request will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: March 4, 2008.

Cheryl Atkinson,

*Administrator, Office of Workforce Security,
Washington, DC.*

[FR Doc. E8-4657 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FW-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,396]

Atreum-Brighton, a Subsidiary of Magna International Decoma International Division Including On- Site Leased Workers From Qualified Staffing, Aerotek and On-Site Workers From Hubbard Supply Company and Robert Half Management Resources; Brighton, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 14, 2007, applicable to workers of Atreum-Brighton, a subsidiary of Magna International, Decoma International Division, including on-site leased workers from Qualified Staffing and Aerotek, Brighton, Michigan. The notice was published in the **Federal Register** on December 10, 2007 (72 FR 69710). The certification was amended on January 8, 2008 to include workers of Hubbard Supply Company working on-site at the Brighton, Michigan location. The notice was published on January 15, 2008 (73 FR 2543).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of door panels and various other injection molded parts for the automobile industry.

New information shows that workers of Robert Half Management Resources were employed on-site at the Brighton, Michigan location of Atreum-Brighton, a subsidiary of Magna International, Decoma International Division. The Department has determined that these workers were sufficiently under the control of the subject firm and should be considered part of the affected worker group.

Based on these findings, the Department is amending this certification to include workers of Robert Half Management Resources who were employed on-site at the Brighton, Michigan location of the subject firm.

The intent of the Department's certification is to include all workers employed at Atreum-Brighton, a subsidiary of Magna International, Decoma International Division, Brighton, Michigan who were adversely impacted by a shift in production of door panels and various other injection molded parts for automobile industry to Mexico and Canada.

The amended notice applicable to TA-W-62,396 is hereby issued as follows:

"All workers of Atreum-Brighton, a subsidiary of Magna International, Decoma International Division, including on-site leased workers from Qualified Staffing and Aerotek, and on-site workers from Hubbard Supply Company and Robert Half Management Resources, Brighton, Michigan, who became totally or partially separated from employment on or after October 30, 2006, through November 14, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

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

Richard Church,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E8-4666 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,180]

Cooper Standard Automotive Fluid Systems Division—Archbold, OH Plant Including On-Site Leased Workers From Kelly Services, Msx International and Angola Personnel; Archbold, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 4, 2008, applicable to workers of Cooper Standard Automotive, Fluid Systems

Division—Archbold, Ohio Plant, Archbold, Ohio, including on-site leased workers from Kelly Services and MSX International. The notice was published in the **Federal Register** on February 22, 2008 (73 FR 9835).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of brazed and coated, welded and stainless steel tubing for automotive fuel and brake applications.

New information shows that leased workers of Angola Personnel were employed on-site at the Archbold, Ohio location of Fluid Systems Division, Archbold, Ohio Plant of Cooper Standard Automotive. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers of Angola Personnel working on-site at the Fluid Systems Division, Archbold, Ohio Plant location of the subject firm.

The intent of the Department's certification is to include all workers at Cooper Standard Automotive, Fluid Systems Division, Archbold, Ohio Plant, Archbold, Ohio who were adversely impacted by increased imports of brazed and coated, welded and stainless steel tubing for automotive fuel and brake applications.

The amended notice applicable to TA-W-62,180 is hereby issued as follows:

"All workers of Cooper Standard Automotive, Fluid Systems Division—Archbold, Ohio Plant, Archbold, Ohio, including on-site leased workers from Kelly Services, MSX International, and Angola Personnel, who became totally or partially separated from employment on or after September 20, 2006, through February 4, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of March 2008.

Linda G. Poole,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E8-4665 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration****Notice of Determinations Regarding
Eligibility To Apply for Worker
Adjustment Assistance and Alternative
Trade Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the period of *February 25 through February 29, 2008*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the

articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) *Either—*

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

**Affirmative Determinations for Worker
Adjustment Assistance**

The following certifications have been issued. The date following the company name and location of each determination references the impact

date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

**Affirmative Determinations for Worker
Adjustment Assistance and Alternative
Trade Adjustment Assistance**

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-62,728; *Haldex Brake Products, Commercial Vehicles Systems, Block Plant, Prattville, AL: January 23, 2007.*

TA-W-62,737; *Cherry Corporation, Cherry Electrical Products Division, Pleasant Prairie, WI: November 1, 2007.*

TA-W-62,797; *Andin International, Inc., Headquarters, New York, NY: February 2, 2007.*

TA-W-62,657; *Plum Creek Evergreen Sawmill and Reman, Plum Creek Administrative Corporation, On-Site Leased Workers of LC Staffing, Kalispell, MT: January 9, 2007.*

TA-W-62,700; *Contact Industries, dba Clear Pine Mouldings, Prineville, OR: January 15, 2007.*

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-62,580; *Belden, dba Mohawk, Manchester, CT: December 17, 2006.*
TA-W-62,689; *Emerson Power Transmission, A Subsidiary of*

Emerson Electric, Aurora, IL: January 15, 2007.

TA-W-62,769; *Nemak USA, Inc., A Subsidiary of Nemak, Dickson, TN: January 12, 2007.*

TA-W-62,838; *Delphi Corporation, Steering Division, On-Site Leased Workers From Barteck, Tech Central etc., Athens, AL: February 11, 2007.*

TA-W-62,866; *International Automotive Components North America, Hard Trim Division, Edinburgh, IN: February 9, 2007.*

TA-W-62,704; *Springs Window Fashions, On-Site Leased Workers from Kelly Services, Montgomery, PA: January 4, 2007.*

TA-W-62,406; *Ceratizit South Carolina, LLC, A Subsidiary of Ceratizit USA, Inc., Columbia, SC: November 2, 2006.*

TA-W-62,654; *Leggett and Platt, Design Fabricators Division, Leased Workers From Above The Rest Staffing, Thornton, CO: January 4, 2007.*

TA-W-62,669; *La-Z-Boy Greensboro, Inc., Lea/American Drew Division, North Wilkesboro, NC: October 29, 2007.*

TA-W-62,693; *Huffman Hosiery Mills, Inc., On-Site Leased Workers from Express Office Systems, Granite Falls, NC: December 19, 2006.*

TA-W-62,701; *Tri-Core Mold and Die, Inc., Machesney Park, IL: January 4, 2007.*

TA-W-62,774; *Agfa Corporation, Wilmington, MA: January 30, 2007.*

TA-W-62,816; *FMC Corporation, Agricultural Products Group, Baltimore, MD: February 7, 2007.*

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W-62,488; *Aleris International, Inc., Formerly Known as Wabash Alloys, Inc., Dickson, TN: November 20, 2006.*

TA-W-62,626; *Visteon Systems LLC, Bedford Plant, A Subsidiary of Visteon Corp., On-Site Leased Workers Securitas, Bedford, IN: January 21, 2008.*

TA-W-62,699; *Victor Plastics, Inc., North Liberty Division, North Liberty, IA: January 15, 2007.*

TA-W-62,857; *Circuit Images, Inc., Boulder, CO: February 14, 2007.*

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section

246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA-W-62,750; *Carson's, Inc., Archdale, NC.*

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA-W-62,665; *Chemcraft Systems LLC, A Subsidiary of Akzo Nobel, Cullman, AL.*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-62,812; *TTX Company, I.T. Department, Chicago, IL.*

The investigation revealed that criteria of Section 222(b)(2) has not been

met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of *February 25 through February 29, 2008*. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 5, 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4664 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2008.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 21, 2008.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade

Adjustment Assistance, Employment
and Training Administration, U.S.
Department of Labor, Room C-5311, 200
Constitution Avenue, NW., Washington,
DC 20210.

Signed at Washington, DC, this 5th day of
March 2008.

Linda G. Poole,
*Certifying Officer, Division of Trade
Adjustment Assistance.*

APPENDIX

[TAA petitions instituted between 2/25/08 and 2/29/08]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
62883	Alcatel-Lucent (IBEW)	Columbus, OH	02/25/08	02/15/08
62884	Hart and Cooley, Inc. (Rep)	Tucson, AZ	02/25/08	02/21/08
62885	Wingfoot Commercial Tire Systems (Wkrs)	Fort Smith, AR	02/25/08	02/07/08
62886	Midwest Manufacturing Company (Comp)	Kellogg, IA	02/25/08	02/21/08
62887	TST Overland Express (Union)	Flint, MI	02/25/08	02/15/08
62888	Johnson Controls, Inc. (FoaMech Plant) (Comp)	Georgetown, KY	02/25/08	02/21/08
62889	Robert Bosch Tool Corporation (Comp)	Lincolnton, NC	02/25/08	02/21/08
62890	Buxton Acquisition Co., LLC (Comp)	Chicopee, MA	02/25/08	01/21/08
62891	FCI USA, Inc. (Comp)	Etters, PA	02/25/08	02/14/08
62892	Barnes Aerospace (State)	Windsor, CT	02/25/08	02/21/08
62893	Sylmark (State)	Los Angeles, CA	02/25/08	02/20/08
62894	Siemens IT Solutions and Services (Wkrs)	Toledo, OH	02/25/08	02/21/08
62895	Monterey Mills (Wkrs)	Janesville, WI	02/25/08	02/20/08
62896	Schlage Lock (State)	Colorado Springs, CO	02/26/08	02/21/08
62897	Motorola, Inc. (Comp)	Fort Worth, TX	02/26/08	02/25/08
62898	Finisar Corporation (Wkrs)	Allen, TX	02/26/08	02/21/08
62899	Profilia Corporation (State)	Commerce, CA	02/26/08	02/25/08
62900	Ibiden Circuits of America (Comp)	Elgin, IL	02/26/08	02/22/08
62901	Georgia-Pacific Corrugated LLC (Union)	Franklin, MA	02/26/08	02/21/08
62902	Esselte (Comp)	Kankakee, IL	02/26/08	02/18/08
62903	Perry Manufacturing Company (Comp)	Mount Airy, NC	02/26/08	02/14/08
62904	Prime Tanning, Inc. (Wkrs)	St. Joseph, MO	02/26/08	02/22/08
62905	King Systems Corporation/Pastics Technology Div. (Wkrs)	Noblesville, IN	02/26/08	02/21/08
62906	Von Weise, Inc. (Wkrs)	Nappanee, IN	02/26/08	02/25/08
62907	KX Technology (State)	Orange, CA	02/27/08	01/26/08
62908	US Timber Company (State)	Baker City, OR	02/27/08	02/25/08
62909	R. E. Phelon (Lomira Division) (Comp)	Lomira, WI	02/27/08	02/27/08
62910	The Hoover Company (State)	El Paso, TX	02/27/08	02/26/08
62911	General Electric—Niles Glass Plant (Comp)	Niles, OH	02/27/08	02/19/08
62912	Sensata Technologies—Power Controls (Comp)	Cambridge, MD	02/27/08	02/14/08
62913	Covalence Plastics (State)	Santa Fe Springs, CA	02/27/08	02/15/08
62914	Carrollton Specialties Product (State)	Carrollton, MO	02/27/08	02/20/08
62915	Furniture Makers Supply Company (Comp)	Lexington, NC	02/27/08	02/21/08
62916	Lexington Abrasive Belts (Comp)	Lexington, NC	02/27/08	02/21/08
62917	Fallon Luminous Products (State)	Spartanburg, SC	02/28/08	02/27/08
62918	TT Electronics/IRC, Inc. (Comp)	Boone, NC	02/28/08	02/27/08
62919	Penske Logistics for Rowe Furniture (State)	Elliston, VA	02/28/08	02/26/08
62920	Lanxess Sybron (USWA)	Birmingham, NJ	02/28/08	02/27/08
62921	Advance America (Wkrs)	Spartanburg, SC	02/28/08	02/04/08
62922	Kodyn Products Company (Rep)	Loyalhanna, PA	02/28/08	02/28/08
62923	American Fiber and Finishing, Inc. (Comp)	Newberry, SC	02/28/08	02/27/08
62924	Techpack America, Inc. (Comp)	Morristown, TN	02/28/08	02/27/08
62925	Domtar Industries, Inc. (USW)	Port Edwards, WI	02/28/08	02/27/08
62926	SDS Lumber Company (State)	Bingen, WA	02/29/08	02/26/08
62927	Chase Bank (Wkrs)	Lexington, KY	02/29/08	02/28/08

[FR Doc. E8-4663 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-62,696]

**J.J. Peiger Company; Pittsburgh, PA;
Notice of Negative Determination
Regarding Application for
Reconsideration**

By application of February 15, 2008,
a petitioner requested administrative
reconsideration of the Department's

negative determination regarding
eligibility for workers and former
workers of the subject firm to apply for
Trade Adjustment Assistance (TAA).
The denial notice was signed on January
23, 2008 and published in the **Federal
Register** on February 7, 2008 (73 FR
73191).

Pursuant to 29 CFR 90.18(c)
reconsideration may be granted under
the following circumstances:

(1) If it appears on the basis of facts
not previously considered that the

determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at J.J. Peiger Company, Pittsburgh, Pennsylvania. The workers were engaged in the wholesale distribution of upholstery fabrics and supplies. The denial was based on the findings that during the relevant time period, the subject company did not separate or threaten to separate a significant number or proportion of workers, as required by Section 222 of the Trade Act of 1974.

In the request for reconsideration, the petitioner states that "in the past eight years, a number of JJP employees has dropped from eleven to six." To support his allegations, the petitioner submitted the names of seven employees who were no longer with the company.

When assessing eligibility for TAA, the Department exclusively considers the relevant employment data (for one year prior to the date of the petition and any imminent layoffs) for the facility where the petitioning worker group was employed.

The Department contacted the company official to verify employment numbers at the subject firm since January 15, 2007 as well as the status of the employment of the workers provided by the petitioner in the reconsideration request. The company official confirmed that only one worker from the list was separated from the subject firm in the relevant period. Furthermore, the company official confirmed that overall employment did not decline at the subject firm since January 2007. As employment levels at the subject facility did not decline during the relevant time period and there was no threat of separations during the relevant period, criterion (1) has not been met. Significant number or proportion of the workers in a firm or appropriate subdivision means at least three workers in a workforce of fewer than 50 workers, five percent of the workers in a workforce of over 50 workers, or at least 50 workers.

Furthermore, the investigation revealed that the workers of J.J. Peiger Company, Pittsburgh, Pennsylvania are engaged in a wholesale distribution of upholstery fabrics and supplies. These functions, as described above, are not considered production of an article. Therefore, workers of the worker group

do not produce an article within the meaning of Section 222 of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 4th day of March, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4668 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,808]

Brunswick Bowling & Billiards Corporation, Muskegon, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 7, 2008 in response to a petition filed by a state agency representative on behalf of workers at Brunswick Bowling & Billiards Corporation, Muskegon, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 5th day of March, 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4670 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,778]

Lear Corporation, Fenton, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 31, 2008 in response to a worker petition filed by the United Auto Workers on behalf of workers at the Lear Corporation, Fenton, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4669 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,819]

Robert Half Management Resources On-Site Leased Workers Employed at Atreum-Brighton, Brighton, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 8, 2008 in response to a worker petition filed by the Michigan TAA Coordinator on behalf of workers of Robert Half Management Resources working at Atreum-Brighton, Brighton, Michigan.

The petitioning group of workers is covered by an active certification, TA-W-62,396, amended on March 3, 2008. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8-4662 Filed 3-10-08; 8:45 am]

BILLING CODE 4510-FN-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used when veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records. The public is invited to comment on the proposed information

collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before May 12, 2008 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740-6001; or faxed to 301-713-7409; or electronically mailed to tamee.fechhelm@nara.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301-837-1694, or fax number 301-713-7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Authorization for Release of Military Medical Patient Records, Request for Information Needed to Locate Medical Records, Request for Information Needed to Reconstruct Medical Data, and Questionnaire about Military Service.

OMB Number: 3095-0039.

Agency Form Number: NA Forms 13036, 13042, 13055, and 13075.

Type of Review: Regular.

Affected Public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated Number of Respondents: 79,800.

Estimated Time Per Response: 5 minutes.

Frequency of Response: On occasion (when respondent wishes to request information from a military personnel, military medical, and dependent medical record).

Estimated Total Annual Burden Hours: 6,650 hours.

Abstract: The information collection is prescribed by 36 CFR 1228.162. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT, U.S. Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military personnel and medical records of veterans after discharge, retirement, and death. In addition, NPRC administers the medical records of dependents of service personnel. When veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records, they must provide on forms or in letters certain information about the veteran and the nature of the request. A major fire at the NPRC on July 12, 1973, destroyed numerous military records. If individuals' requests involve records or information from records that may have been lost in the fire, requesters may be asked to complete NA Form 13075, Questionnaire about Military Service, or NA Form 13055, Request for Information Needed to Reconstruct Medical Data, so that NPRC staff can search alternative sources to reconstruct the requested information. Requesters who ask for medical records of dependents of service personnel and hospitalization records of military personnel are asked to complete NA Form 13042, Request for Information Needed to Locate Medical Records, so that NPRC staff can locate the desired records. Certain types of information contained in military personnel and medical records are restricted from disclosure unless the veteran provides a more specific release authorization than is normally required. Veterans are asked to complete NA Form 13036, Authorization for Release of Military Medical Patient Records, to authorize release to a third party of a restricted type of information found in the desired record.

Dated: March 3, 2008.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E8-4868 Filed 3-10-08; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 163rd Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on March 28, 2008, in Room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting, from 9 a.m. to 12 p.m. (ending time is approximate), will be open to the public on a space available basis. After opening remarks and announcements, there will be an update from the Government Affairs office. The meeting will include a presentation on the *NEA Jazz Initiative*, including guest speakers and a performance. After the presentations the Council will review and vote on applications and guidelines, and the meeting will conclude with a general discussion.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY-TDD 202/682-5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682-5570.

Dated: March 5, 2008.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. E8-4745 Filed 3-10-08; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, March 18, 2008.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

7992—*Railroad Accident Report*—Collision of Massachusetts Bay Transportation Authority Train 322 and Track Maintenance Equipment near Woburn, Massachusetts, January 9, 2007 (DCA-07-FR-006).

NEWS MEDIA CONTACT: Telephone: (202) 314-6100.

Individuals requesting specific accommodations should contact Chris Bisett at (202) 314-6305 by Friday, March 14, 2007.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at www.nts.gov.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314-6410.

Dated: Friday, March 7, 2007.

Vicky D'Onofrio,

Federal Register Liaison Officer,

[FR Doc. 08-1008 Filed 3-7-08; 12:30 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 14,

2008 to February 27, 2008. The last biweekly notice was published on February 26, 2008 (73 FR 10293).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication

date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's

right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would

take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at hearingdocket@nrc.gov, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the

General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp,

unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

AmerGen Energy Company, LLC, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station (Oyster Creek), Ocean County, New Jersey

Date of amendment request: May 16, 2007.

Description of amendment request: The proposed amendment would revise the Oyster Creek Technical Specification (TS) 3.5.A.6, "Primary Containment." Specifically, the proposed change would revise the actions taken and applicability of the requirement to inert the primary containment atmosphere to less than 4 percent oxygen (O₂) concentration. Currently, the primary containment atmosphere must be inert within 24 hours of placing the reactor mode switch in the run mode and may be de-inerted 24 hours prior to a scheduled shutdown. The proposed revision would require the primary containment atmosphere to be inert within 24 hours after reaching 15 percent of rated thermal power and would allow the atmosphere to be de-inerted 24 hours prior to reducing power below 15 percent rated thermal power. Additionally, the proposed revision would introduce definitions for thermal power and rated thermal power, including changes for their consistent use within the TSs.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes modify the Technical Specifications (TS) by adding definitions of Rated Thermal Power (RTP) and Thermal Power to TS and adopting containment inerting and de-inerting requirements that are consistent with the guidance of NUREG-1433, "Standard Technical Specifications—General Electric Plants, BWR/4" (STS), Revision 3.1. Additionally, various TS and TS Bases pages are being revised to capitalize THERMAL POWER and RATED THERMAL POWER, to maintain consistency with typical TS format. The proposed changes will [require] inerting of the primary containment within 24 hours of exceeding 15% (RTP) during a plant startup, and [allow] de-inerting 24 hours prior to reducing thermal power to less than 15% RTP during a plant shutdown. Also, a new TS condition will be added to identify required actions if the primary containment oxygen concentration increases to greater than or equal to four volume percent while in the RUN MODE. The proposed changes do not alter the physical configuration of the plant, nor do they affect any previously analyzed accident initiators. The [Loss of Coolant Accident (LOCA)] analysis assumes that a [LOCA] occurs at 100% power. The consequences of a LOCA at less than 15% RTP would be much less severe, and produce less hydrogen than a LOCA at 100% power.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes add definitions of [RTP] and Thermal Power to TS and adopt the STS guidance regarding containment inerting/de-inerting requirements. Additionally, various TS and TS Bases pages are being revised to capitalize THERMAL POWER and RATED THERMAL POWER, to maintain consistency with typical TS format. The proposed changes introduce no new mode of plant operation and they do not involve any physical modification to the plant. The proposed changes [remain bounded by] the current [LOCA] analysis assumptions. No setpoints are being changed which would alter the dynamic response of plant equipment. Accordingly, no new failure modes are introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes add definitions of [RTP] and Thermal Power to TS and adopt the [NUREG-1433, "Standard Technical Specifications—General Electric Plants, BWR/4, Revision 3.1, December 1, 2005] guidance regarding containment inerting/de-inerting requirements. Additionally, various TS and TS Bases pages are being revised to capitalize THERMAL POWER and RATED THERMAL POWER, to maintain consistency with typical TS format. Adoption of the STS reference point operating condition of 15% RTP adds operational flexibility related to the performance of inspections and maintenance inside primary containment during plant startup and shutdown. Making the 24-hour time period contingent upon core thermal power, rather than reactor mode switch position during a plant startup, will enable placing the mode switch in the RUN position sooner. The proposed changes do not [invalidate] any assumptions or conclusions contained in the plant safety analyses, which assume that a LOCA occurs at 100% power. The current Limiting Condition for Operation action requirement and shutdown reference condition for de-inerting involve a complete reactor shutdown. Changing this requirement to 15% RTP, avoids the potential for an unnecessary plant transient.

Therefore, the proposed changes do not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas S. O'Neill, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
NRC Branch Chief: Harold K. Chernoff.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 25, 2008.

Description of amendment request: The proposed changes will revise the Technical Specifications (TS) 3.7.5, "Main Turbine Bypass System," for River Bend Station, Unit 1 (RBS), allowing the reactor operating limits to be modified, as specified in the RBS, Core Operating Limits Report (COLR), to compensate for the inoperability of the Main Turbine Bypass System (MTBS). The changes will provide an alternative to the existing Limiting Condition for Operation (LCO) for the MTBS. The revised TS will require that either the MTBS be OPERABLE or that the Average Planar Linear Heat Generation Rate (APLHGR), Minimum Critical

Power Ratio (MCPR), and Linear Heat Generation Rate and limits for the inoperable MTBS be placed in effect as specified in the COLR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Main Turbine Bypass System (MTBS) functions to limit reactor pressure and power increases during certain transients postulated in the accident analysis. The MTBS is a mitigation function and not the initiator of any evaluated accident or transient. Operation with inoperable MTBS and compliance with the revised set of Minimum Critical Power Ratio (MCPR), Average Planar Linear Heat Generation Rate (APLHGR) and Linear Heat Generation Rate (LHGR) operating limits will offset the impact of losing the MTBS function.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will not create any new modes of plant or equipment operation. The proposed change allows the option to apply an additional penalty factor to the MCPR, APLHGR, and LHGR when the MTBS is inoperable. With the revised set of operating limits will offset the impact of losing the MTBS function, the margin to the MCPR SL and the thermal mechanical design limits are maintained. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

restrictive APLHGR, MCPR, and LHGR operating limits, there are no changes to the plant design and safety analysis. There are no changes to the reactor core design instrument setpoints. The margin of safety assumed in the safety analysis is not affected. Applicable regulatory requirements will continue to be met and adequate defense-in-depth will be maintained. Sufficient safety margins will be maintained.

The analytical methods used to determine the revised core operating limits were reviewed and approved by the NRC, and are described in Technical Specification 5.6.5.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Terence A. Burke, Associate General Council—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Thomas G. Hiltz.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: February 6, 2008.

Description of amendment request: The proposed amendment would revise the Surveillance Requirements (SRs) for control rod exercising from weekly to monthly in Technical Specification (TS) 4.3.A.2, revise verification of control rod coupling integrity as described in TS 4.3.B.1, revise the scram insertion time Limiting Conditions for Operation (LCO) and SRs as described in TS 3.3.C and 4.3.C, and enhance TS 3.3.D and 4.3.D, the LCO and SR for Control Rod Accumulators.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not significantly affect the design or fundamental operation and maintenance of the plant. Accident initiators or the frequency of analyzed accident events are not significantly affected as a result of the proposed changes; therefore, there will be no significant change to the probabilities of accidents previously evaluated.

The proposed changes do not significantly alter assumptions or initial conditions relative to the mitigation of an accident previously evaluated. The proposed changes continue to ensure process variables, structures, systems, and components (SSCs) are maintained consistent with the safety analyses and licensing basis. The revised Technical Specifications continue to require that SSCs are properly maintained to ensure operability and performance of safety functions as assumed in the safety analyses. The design basis events analyzed in the safety analyses will not change significantly as a result of the proposed changes to the TS.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical alteration of the plant (no new or different type of equipment being installed) and do not involve a change in the design, normal configuration or basic operation of the plant. The proposed changes do not introduce any new accident initiators. In some cases, the proposed changes impose different requirements; however, these new requirements are consistent with the assumptions in the safety analyses. Where requirements are relocated to other licensee-controlled documents, adequate controls exist to ensure their proper maintenance.

The proposed changes do not involve significant changes in the fundamental methods governing normal plant operation and do not require unusual or uncommon operator actions. The proposed changes provide assurance that the plant will not be operated in a mode or condition that violates the essential assumptions or initial conditions in the safety analyses and that SSCs remain capable of performing their intended safety functions as assumed in the same analyses. Consequently, the response of the plant and the plant operator to postulated events will not be significantly different.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. The proposed changes do not significantly affect any of the assumptions, initial conditions or inputs to the safety analyses. Plant design is unaffected by these proposed changes and will continue to provide adequate defense-in-depth and diversity of safety functions as assumed in the safety analyses.

There are no proposed changes to any of the Safety Limits or Limiting Safety System Setting requirements. The proposed changes maintain requirements consistent with safety analyses assumptions and the licensing basis. Fission product barriers will continue to meet their design capabilities without any significant impact to their ability to maintain parameters within acceptable limits. The safety functions are maintained within acceptable limits without any significant decrease in capability.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Mark G. Kowal.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: January 23, 2008.

Description of amendment request: Replace the current St. Lucie Unit 2 Technical Specification pressure-temperature (P/T) limit curves with new P/T limit curves applicable to 55 effective full-power years (EFPY). The low-temperature overpressure protection (LTOP) requirements, which are based on the P/T limits, will also be applicable to 55 EFPY.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes have been determined in accordance with the methodologies set forth in the regulations to provide an adequate margin of safety to ensure that the reactor vessel will withstand the effects of normal startup and shutdown cyclic loads due to system temperature and pressure changes as well as the loads associated with reactor trips. The regulations of 10 CFR part 50 Appendix A, Design Criterion 14 and Design Criterion 31 remains satisfied. The pressure-temperature (P/T) limit curves in the Technical Specifications are conservatively generated in accordance with the fracture toughness requirements of the ASME Code [American Society of American Engineers Boiler and Pressure Vessel Code] Section XI, Appendix G. The margins of safety against fracture provided by the P/T limits using the requirements of 10 CFR 50 Appendix G are equivalent to those recommended in ASME Section XI, Appendix G. The Adjusted Reference Temperature (ART) values are based on the guidance of RG [Regulatory Guide] 1.99 [Reference 4].

The proposed changes will not result in physical changes to structures, systems or components [(SSCs)] or to event initiators or precursors. Changing the heatup and cooldown curves and the pressure relief setpoints to reflect 55 EFPY does not affect the ability to control the RCS at low [-]temperatures such that the integrity of the reactor coolant pressure boundary would not be compromised by violating the P/T limits.

The proposed changes will not impact assumptions and conditions previously used in the radiological consequence evaluations nor affect mitigation of these consequences due to an accident described in the UFSAR [Updated Final Safety Analysis Report]. Also, the proposed changes will not impact a plant system such that previously analyzed SSCs might be more likely to fail. The initiating conditions and assumptions for accidents described in the UFSAR remain as analyzed.

Thus, based on the above, reasonable assurance is provided that the proposed amendment does not significantly increase the probability or consequences of accidents previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The requirements for P/T limit curves and LTOP have been in place since the beginning of plant operation. The revised curves are based on a later edition of Section XI of the ASME Code that incorporates current industry standards for P/T curves. The revised curves also are based on reactor vessel irradiation damage predictions using RG 1.99 methodology. No new failure modes are identified nor are any SSCs required to be operated outside of their design bases. Consequently, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed P/T curves continue to maintain the safety margins of 10 CFR 50 Appendix G by defining the limits of operation which prevent nonductile failure of the reactor pressure vessel. Analyses have demonstrated that the fracture toughness requirements are satisfied and that conservative operating restrictions are maintained for the purpose of low [-]temperature overpressure protection. The P/T limit curves provide assurance that the RCS [reactor coolant system] pressure boundary will behave in a ductile manner and that the probability of a rapidly propagating fracture is minimized. Therefore, operation in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408-0420.

NRC Branch Chief: Thomas H. Boyce.

Nuclear Management Company, LLC, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 6, 2008.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) in conjunction with the replacement of the analog power range neutron monitoring (PRNM) system with a more reliable digital upgrade, the General Electric—Hitachi Nuclear Measurement Analysis and Control (NUMAC) digital system. This upgrade also includes an oscillation power range monitor capability, which implements a detect-and-suppress long-term stability solution methodology. This upgrade will also simplify the management and maintenance of the PRNM. As a result of this design change, TS 3.3.1.1, "Reactor Protection System (RPS) Instrumentation;" TS 3.3.2.1, "Control Rod Block Instrumentation;" TS 3.4.1, "Recirculation Loops Operating;" and TS 5.6.3, "Core Operating Limits Report (COLR)" will be revised.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC). The NRC staff reviewed the licensee's analysis, and has performed its own analysis as follows:

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment will upgrade the existing PRNM system from analog to digital, and revise Technical Specification requirements associated with the PRNM system. The PRNM system will continue to perform its design functions after the upgrade and TS changes under all conditions of operation for which the PRNM system was designed; thus, there is no decrease in the functionality of the PRNM system. The upgrade from analog to digital is expected to improve reliability of the system. Whether the PRNM system is analog or digital does not have an impact on precursors leading to previously evaluated accidents; therefore, the proposed amendment does not increase the probability of a previously evaluated accident. The upgraded PRNM system will continue to carry out the PRNM design functions; therefore, the plant systems required to mitigate accidents will not be negatively affected by the upgrade of the PRNM

system, and will remain capable of performing their accident-mitigating functions. As a result, the proposed amendment will not lead to a significant change in the consequences of any accident previously evaluated.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment would only upgrade the PRNM system from analog to digital, and revise associated Technical Specification requirements. The PRNM system was not determined to be a precursor of previously evaluated accidents. Its conversion from analog to digital would not change this status. Furthermore, other than the PRNM system, there will not be any physical alteration of any system, structure, or component (SSC) or change in the way any SSC is operated. The proposed amendment does not involve operation of any SSCs in a manner or configuration different from those previously recognized or evaluated. No new failure mechanisms will be introduced by the upgraded PRNM system and associated requirements. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

No. The proposed amendment does not involve lowering any acceptance standard for the PRNM system. Also, there will be no relaxation of any limiting condition for operation, relaxation of assumptions for previously evaluated accidents, or relaxation of methodology used to evaluate consequences of accidents. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on the NRC staff's own analysis above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Acting Branch Chief: Patrick Milano.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following

amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: August 6, 2007.

Brief Description of amendments: The amendments revise Technical Specification 5.5.12, "Primary

Containment Leakage Rate Testing Program," to allow the required visual inspections to be performed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section XI, Subsections IWL and IWE.

Date of issuance: February 8, 2008.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment Nos.: 245 and 273.

Facility Operating License Nos. DPR-71 and DPR-62: Amendments change the Technical Specifications.

*Date of initial notice in **Federal Register**:* December 4, 2007 (72 FR 68208). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 8, 2008.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket No. 50-369, McGuire Nuclear Station, Unit 1, Mecklenburg County, North Carolina

Date of application for amendments: February 21, 2007, as supplemented August 9, 2007.

Brief description of amendments: The amendment revised administrative TS 5.5.2, "Containment Leak Rate Testing Program," from the currently approved 15-year interval (since the last McGuire Unit 1 Type A test) to a frequency encompassing the end of the McGuire Unit 1 End of Cycle (EOC) 19 refueling outage (approximately 6 months beyond the present frequency).

Date of issuance: February 13, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 244.

Renewed Facility Operating License No. NPF-9: Amendments revised the license and the technical specifications.

*Date of initial notice in **Federal Register**:* December 31, 2007 (72 FR 74357) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 2008.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: June 1, 2006, supplemented by letters dated March 14, October 8, and October 30, 2007.

Brief description of amendments: The amendments authorized revisions of the Updated Final Safety Analysis Report to incorporate the use of fiber-reinforced

polymer system that will be used to strengthen certain masonry walls to withstand the pressure loads from a tornado.

Date of Issuance: February 21, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 360, 362, and 361.

Renewed Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: Amendments revised the licenses and the technical specifications.

Date of initial notice in Federal Register: July 18, 2006 (71 FR 40745). The supplements dated March 14, October 8, and October 30, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 21, 2008.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: August 21, 2007.

Brief description of amendment: The amendment revised the Technical Specifications (TS) to adopt TS Task Force (TSTF) change traveler TSTF-448, Revision 3, "Control Room Habitability."

Date of issuance: February 20, 2008.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 230.

Facility Operating License No. DPR-20. Amendment renewed the Technical Specifications and Facility Operating License.

Date of initial notice in Federal Register: November 6, 2007 (72 FR 62687). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 20, 2008.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendment: February 20, 2007, as supplemented by letters dated September 14, 2007, October 18, 2007 and December 20, 2007.

Brief description of amendment: The amendments consist of changes to the Technical Specifications for each unit to allow a deferral of the next required Type A, containment integrated leak rate test to May 15, 2013 (Unit 1) and to May 21, 2014 (Unit 2). The changes reflect an extension of the test interval for each unit from 10 to 15 years.

Date of issuance: February 20, 2008

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 190 and 151

Facility Operating License Nos. NPF-39 and NPF-85. This amendment revised the license and the technical specifications.

Date of initial notice in Federal Register: August 14, 2007 (72 FR 45456). The supplements dated September 14, 2007, October 18, 2007 and December 20, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed and did not change the NRC staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 20, 2008.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50-334 and 50-412 Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of application for amendment: August 30, 2007.

Brief description of amendment: The amendments will modify Technical Specification (TS) requirements related to control room envelope habitability in TS 3.7.10, "Control Room Emergency Ventilation System (CREVS)" and TS Section 5.5, "Administrative Controls—Programs and Manuals." The changes are consistent with Nuclear Regulatory Commission (NRC) approved Industry/Technical Specification Task Force (TSTF) Traveler TSTF-448, Revision 3. The availability of this TS improvement was published in the **Federal Register** on January 17, 2007 (72 FR 2022), as part of the consolidated line item improvement process.

Date of issuance: February 15, 2008.

Effective date: As of the date of issuance, and shall be implemented within 120 days from the date of issuance.

Amendment No.: 281 and 163.

Facility Operating License Nos. DPR-66 and NPF-73: The amendments revised the License and T.

Date of initial notice in Federal Register: November 20, 2007 (72 FR 65365).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 2008.

No significant hazards consideration comment.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: June 4, 2007.

Brief description of amendments: The amendments removed Technical Specification (TS) requirements related to hydrogen recombiners and hydrogen monitors as part of the consolidated line item improvement process.

Date of Issuance: February 22, 2008.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 204 and 151.

Renewed Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the TSs.

Date of initial notice in Federal Register: August 14, 2007 (72 FR 45457).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 22, 2008.

No significant hazards consideration comments received: No.

FPL Energy, Point Beach, LLC, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: July 12, 2007, as supplemented by letter dated October 8, 2007.

Brief description of amendments: The proposed amendment would revise Technical Specification 3.6.3, "Containment Isolation Valves." The revision would delete Surveillance Requirement 3.6.3.1, which is no longer required due to the containment purge supply and exhaust valve isolation function being replaced with blind flanges. The proposed amendment would also support a change to the Final Safety Analysis Report to revise the requirement to leak check the purge supply and exhaust valves.

Date of issuance: February 19, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 231 and 236.

Renewed Facility Operating License Nos. DPR-24 and DPR-27: Amendments

revised the Technical Specifications/License.

Date of initial notice in Federal Register: August 28, 2007 (72 FR 49580). The October 8, 2007

supplement, contained clarifying information and did not change the staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 2008.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 10, 2007, as supplemented by letter dated December 20, 2007.

Brief description of amendment: The amendment revised the Technical Specification 2.1.1.2 values of two recirculation loop and single recirculation loop safety limit minimum critical power ratio to reflect results of a cycle-specific calculation.

Date of issuance: February 14, 2008.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 229.

Facility Operating License No. DPR-46: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: September 25, 2007 (72 FR 54475). The supplement dated December 20, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 2008.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2 (NMP2), Oswego County, New York

Date of application for amendment: July 30, 2007, as supplemented by letter dated January 3, 2008.

Brief description of amendment: The amendment changes the NMP2 Technical Specifications by changing the testing frequency for drywell spray nozzles specified in Surveillance Requirement 3.6.1.6.3 from "10 years" to "following maintenance that could result in nozzle blockage."

Date of issuance: February 11, 2008.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 122.

Renewed Facility Operating License No. NPF-69: Amendment revises the License and Technical Specifications.

Date of initial notice in Federal Register: September 11, 2007 (72 FR 51864).

The supplement dated January 3, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 11, 2008.

No significant hazards consideration comments received: No

Nuclear Management Company, LLC, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: February 28, 2007.

Brief description of amendments: The amendments revise Technical Specification (TS) 5.2.2, "Plant Staff", and TS 5.3, "Plant Staff Qualifications," requirements for shift technical advisor qualifications. The proposed changes will specify that personnel who perform the function of shift technical advisor (STA) shall meet the qualification requirements of the Commission Policy Statement on Engineering Expertise on Shift, published in **Federal Register** 50 FR 43621, October 28, 1985. This change will allow qualified personnel to perform the function of STA without also holding a senior reactor operator (SRO) license.

Date of issuance: February 25, 2008.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 184 and 174.

Facility Operating License Nos. DPR-42 and DPR-60: Amendments revised the Technical Specifications and Facility Operating License.

Date of initial notice in Federal Register: May 8, 2007 (72 FR 26177). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 25, 2008.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2 (SSES 2), Luzerne County, Pennsylvania

Date of application for amendment: March 2, 2007, as supplemented on December 5, 2007.

Brief description of amendment: The amendment adds an ACTIONS Note 3 to the SSES 2 Technical Specification (TS) 3.8.1, "AC Sources—Operating," to allow a Unit 1 4160 volt subsystem to be de-energized and removed from service to perform bus maintenance.

Date of issuance: February 19, 2008.

Effective date: As of the date of issuance and to be implemented within 30 days.

Amendment No.: 225.

Facility Operating License No. NPF-22: The amendments revised the License and TSs.

Date of initial notice in Federal Register: August 14, 2007 (72 FR 45459). The supplement dated December 5, 2007, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 19, 2008.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: August 14, 2007, as supplemented on January 24, 2008.

Brief description of amendments: The amendments add a new license condition to the SSES 1 and 2 operating licenses to permit the leakage-boundary and containment isolation valves in Title 10 of the *Code of Federal Regulations* Part 50, Appendix J leakage test program, to be tested at the constant pressure power uprate (CPPU) peak containment internal pressure (Pa) in accordance with the current scheduled test intervals rather than requiring all of the valves to be tested at the higher Pa prior to the implementation of the CPPU.

Date of issuance: February 20, 2008.

Effective date: As of the date of issuance and to be implemented within 30 days.

Amendment Nos.: 247 and 226.

Facility Operating License Nos. NPF-14 and NPF-22: The amendments revised the License.

Date of initial notice in Federal Register: September 25, 2007 (72 FR 54479). The supplement dated January 24, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 20, 2008.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: March 16, 2007, as supplemented on August 30, September 14, and November 20, 2007, and January 16, 2008.

Brief description of amendments: The amendments revise the Updated Final Safety Analysis Report (UFSAR) to modify the Salem licensing basis with respect to the response times associated with a steam generator feedwater pump (SGFP) trip and feedwater isolation valve (FIV) closure. The amendments also revise the Technical Specification (TS) requirements for the containment fan cooler unit (CFCU) cooling water flow rate. These changes are associated with a revised containment response analysis that credits an SGFP trip and FIV closure (on a feedwater regulator valve failure) to reduce the mass/energy release to the containment during a main steam line break. The containment analysis also credits a reduced heat removal capability for the CFCUs, allowing a reduction in the required service water flow to the CFCUs.

Date of issuance: February 27, 2008.

Effective date: As of the date of issuance, to be implemented prior to restart from refueling outage 1R19 for Salem Unit 1 and prior to restart from refueling outage 2R16 for Salem Unit 2.

Amendment Nos.: 287 and 270.

Facility Operating License Nos. DPR-70 and DPR-75: The amendments revise the TSs, the license and the UFSAR.

Date of initial notice in Federal Register: April 10, 2007 (72 FR 17951). The letters dated August 30, September 14, and November 20, 2007, and January 16, 2008, provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the application beyond the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated February 27, 2008.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 18, 2007.

Brief description of amendments: The amendments revised the Technical Specifications for unit staff qualifications and also included a revised position title for "Health Physics Superintendent."

Date of issuance: February 21, 2008.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 255 and 199.

Renewed Facility Operating License Nos. DPR-57 and NPF-5: Amendments revised the licenses and the technical specifications.

Date of initial notice in Federal Register: November 20, 2007 (72 FR 65372).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 21, 2008.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 29th day of February 2008.

For the Nuclear Regulatory Commission.

John W. Lubinski,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8-4690 Filed 3-10-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-456 and STN 50-457]

Braidwood Station, Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission, or the NRC) is considering issuance of an amendment to Facility Operating License No. NPF-72 and Facility Operating License No. NPF-77 to

Exelon Generation Company, LLC (the licensee) for operation of the Braidwood Station, Units 1 and 2 (Braidwood), which is located in Will County, Illinois.

The proposed amendment in the licensee's application dated February 25, 2008, would revise Technical Specification (TS) 5.5.9, "Steam Generator (SG) Program," and TS 5.6.9, "Steam Generator Tube Inspection Report." For TS 5.5.9, the amendment would replace the existing alternate repair criteria (ARC) in the provisions for SG tube repair criteria during Braidwood, Unit 2, refueling outage 13 and the subsequent operating cycle. For TS 5.6.9, three new reporting requirements are proposed to be added to the existing seven requirements. The proposed changes would only affect Braidwood, Unit 2; however this is docketed for Braidwood, Units 1 and 2, since the TS are common to Units 1 and 2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Of the various accidents previously evaluated, the proposed changes only affect the steam generator tube rupture (SGTR), postulated steam line break (SLB), locked rotor and control rod ejection accident evaluations. Loss-of-coolant accident (LOCA) conditions cause a compressive axial load to act on the tube. Therefore, since the LOCA tends to force the tube into the tubesheet rather than pull it out, it is not a factor in this amendment request. Another faulted load consideration is a safe shutdown earthquake (SSE); however, the seismic

analysis of Model D5 steam generators has shown that axial loading of the tubes is negligible during an SSE.

At normal operating pressures, leakage from primary water stress corrosion cracking (PWSCC) below 17 inches from the top of the tubesheet is limited by both the tube-to-tubesheet crevice and the limited crack opening permitted by the tubesheet constraint. Consequently, negligible normal operating leakage is expected from cracks within the tubesheet region.

For the SGTR event, the required structural margins of the steam generator tubes is maintained by limiting the allowable ligament size for a circumferential crack to remain in service to 214 degrees below 17 inches from the top of the tubesheet. Tube rupture is precluded for cracks in the hydraulic expansion region due to the constraint provided by the tubesheet. The potential for tube pullout is mitigated by limiting the allowable crack size to 214 degrees, which takes into account eddy current uncertainty and crack growth rate. It has been shown that a circumferential crack with an azimuthal extent of 214 degrees meets the performance criteria of NEI [Nuclear Energy Institute] 97-06, Rev. 2, "Steam Generator Program Guidelines" and the Draft Regulatory Guide (RG) 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes." Likewise, a visual inspection will be conducted as necessary to confirm that a circumferential crack of greater than 294 degrees does not remain in service in the tube-to-tubesheet weld metal in any tube thereby mitigating the potential for tube pullout. Therefore, the margin against tube burst/pullout is maintained during normal and postulated accident conditions and the proposed change does not result in a significant increase in the probability or consequence of a SGTR.

The probability of a SLB is unaffected by the potential failure of a SG tube as the failure of a tube is not an initiator for a SLB event. SLB leakage is limited by leakage flow restrictions resulting from the leakage path above potential cracks through the tube-to-tubesheet crevice. The leak rate during postulated accident conditions has been shown to remain within the accident analysis assumptions for all axial or circumferentially oriented cracks occurring 17 inches below the top of the tubesheet. Since normal operating leakage is limited to 0.10 gallons per minute (gpm) (or 150 gallons per day (gpd)), the attendant accident condition leak rate, assuming all leakage to be from indications below 17 inches from the top of the tubesheet would be bounded by 0.5 gpm. This value is within the accident analysis assumptions for the limiting design basis accident for Braidwood 2, which is the postulated SLB event.

Based on the above, the performance criteria of NEI-97-06, Rev. 2 and RG 1.121 continue to be met and the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not introduce any changes or mechanisms that create the possibility of a new or different kind of accident. Tube bundle integrity is expected to be maintained for all plant conditions upon implementation of the interim alternate repair criteria. The proposed change does not introduce any new equipment or any change to existing equipment. No new effects on existing equipment are created nor are any new malfunctions introduced.

Therefore, based on the above evaluation, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change maintains the required structural margins of the steam generator tubes for both normal and accident conditions. NEI 97-06, Rev. 2 and RG 1.121 are used as the basis in the development of the interim alternate repair criteria (IARC) methodology for determining that steam generator tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the NRC staff for meeting General Design Criteria 14, 15, 31, and 32 by reducing the probability and consequences of an SGTR. RG 1.121 concludes that by determining the limiting safe conditions of tube wall degradation beyond which tubes with unacceptable cracking, as established by inservice inspection, should be removed from service or repaired, the probability and consequences of a SGTR are reduced. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section III of the ASME Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For circumferentially oriented cracking in a tube or the tube-to-tubesheet weld, the Westinghouse analysis, provided in report "LTR-CDME-08-11 P-Attachment," defines a length of remaining tube ligament that provides the necessary resistance to tube pullout due to the pressure induced forces (with applicable safety factors applied). Additionally, it is shown that application of the IARC will not result in unacceptable primary-to-secondary leakage during all plant conditions, including transients and postulated accident conditions.

Based on the above, it is concluded that the proposed changes do not result in any reduction in a margin of safety.

Based on the above, EGC [the licensee] concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c) and, accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the

NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific

sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding

(even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737. Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit

documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

For further details with respect to this license amendment application, see the letter dated February 25, 2008, from the Exelon Generation Company, LLC, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/>

reading-rm/adams.html. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 4th day of March 2008.

For the Nuclear Regulatory Commission.

Meghan M. Thorpe-Kavanaugh,
Project Manager, Plant Licensing Branch III-2,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.

[FR Doc. E8-4861 Filed 3-10-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

PSEG Nuclear, LLC; Hope Creek Generating Station Final Environmental Assessment and Finding of No Significant Impact; Related to the Proposed License Amendment To Increase the Maximum Reactor Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

SUMMARY: As required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 51, the NRC has prepared a final Environmental Assessment (EA) as its evaluation of a request by the PSEG Nuclear, LLC (PSEG) for a license amendment to increase the maximum thermal power at Hope Creek Generating Station (HCGS) from 3,339 megawatts-thermal (MWt) to 3,840 MWt. The EA assesses environmental impacts up to a maximum thermal power level of 3,952 MWt, as the applicant's environmental report was based on that power level. The NRC staff did not identify any significant impact from the information provided in the licensee's EPU application for HCGS or from the NRC staff's independent review. The final EA and Finding of No Significant Impact are being published in the **Federal Register**.

The NRC published a draft EA and finding of no significant impact on the proposed action for public comment in the **Federal Register** on October 22, 2007 (72 FR 59563). Two sets of comments were received on the draft EA: (1) From PSEG Nuclear, LLC by letter dated November 21, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073600851); and (2) from the State of New Jersey Department of Environmental Protection (NJDEP) by letter dated November 21, 2007

(ADAMS Accession No. ML073600859). These comments are addressed below.

Disposition of Public Comments on the Draft Environmental Assessment E

PSEG Comment Number 1: Modify the Cooling Tower Impacts section to more clearly reflect that NJDEP has issued the Title V Air Operating Permit authorizing emissions at 42 lbs/hr upon approval of the [United States Environmental Protection Agency] USEPA.

NRC Response Number 1: This comment is a clarification and editorial correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 2: Modify the Discharge Impacts section to reflect that the [total dissolved solids] TDS limits are indirectly in the Title V Air Operating Permit and not in the [New Jersey Pollutant Discharge Elimination System] NJPDES Permit.

NRC Response Number 2: This comment is a clarification and editorial correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 3: Modify the Discharge Impacts section to reflect that total suspended solids and [total organic carbon] TOC are not routinely monitored and acute and chronic biological toxicity tests are performed during each NJPDES Permit renewal.

NRC Response Number 3: This comment is a clarification and editorial correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 4: Modify the Impacts on Aquatic Biota section, Table 1, to reflect that Atlantic Croaker are considered to be a single Atlantic coast stock.

NRC Response Number 4: Upon further review, the NRC agrees with the comment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 5: Modify the Impacts on Aquatic Biota section to identify inland silversides instead of tidewater silversides.

NRC Response Number 5: Upon further review, the NRC agrees with the comment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 6: Modify the Impacts on Aquatic Biota section to reflect the extensive biological monitoring program at the adjacent Salem Generating Station, reflect the

potential escape mechanism at the intake based on the low intake velocity, and change "no environmental monitoring" to "no intake aquatic monitoring." There are extensive environmental monitoring programs in place at HCGS.

NRC Response Number 6: Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 7: Modify the Radioactive Waste Stream Impacts section to remove the redundant use of the word "waste."

NRC Response Number 7: This comment is an editorial correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 8: Modify the Gaseous Radioactive Waste and Offsite Doses section to reflect values in Table 5-3 of PSEG's Environmental Report for EPU.

NRC Response Number 8: This comment is a clarification correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 9: Modify the Offsite Radiation Doses section to reflect the information contained in Section 5.2.1 of PSEG's Environmental Report for EPU.

NRC Response Number 9: This comment is a clarification correction to the draft EA. Based on this comment, the NRC staff revised the appropriate section of the final EA.

PSEG Comment Number 10: Modify the Summary section, Table 3, to reflect only those values that were discussed in the main text.

NRC Response Number 10: This comment is an editorial correction to the draft EA. Based on this comment, the NRC staff revised the appropriate section of the final EA.

NJDEP Comment Number 1: The proposed modification is subject to the Federal Consistency provisions of the Federal Coastal Zone Management Act (CZMA), and as such, a Federal Consistency determination is required. On July 3, 2007, the NJDEP's Division of Land Use Regulation issued the Federal Consistency certification for the proposed power project.

NRC Response Number 1: This comment is a clarification correction to the draft Environmental Assessment. Based on this comment, the NRC staff revised the appropriate section of the final EA.

NJDEP Comment Number 2: The proposed increase in power output would result in a small increase to the

temperature of the water being discharged into the Delaware River. Although the discharge is within the limits allowed by the current permit, the [NJDEP's Division of Fish and Wildlife] DFW has concerns over potential impacts to resident and migratory fish species within the area.

NRC Response Number 2: Blowdown temperature and composition, and Delaware Estuary water temperatures would remain in compliance with the station's NJPDES permit, and the proposed EPU would not result in changes in any other effluents to the estuary. Therefore, the NRC staff concludes that the proposed EPU would result in negligible impacts on the Delaware Estuary from HCGS discharge. Based on this comment, the NRC staff did not revise the final EA.

NJDEP Comment Number 3: Potential impacts identified by the Draft EA acknowledged that increased evaporation would leave behind more solids in the blowdown, so the concentration of total dissolved solids (TDS) in the effluent would be an average of about 9 percent higher than under current operations. While this is in compliance with the station's NJPDES permit, the Division has concerns over potential impacts to resident and migratory fish species and shellfish within the area.

NRC Response Number 3: Blowdown temperature and composition, and Delaware Estuary water temperatures would remain in compliance with the station's NJPDES permit, and the proposed EPU would not result in changes in any other effluents to the estuary. Therefore, the NRC staff concludes that the proposed EPU would result in negligible impacts on the Delaware Estuary from HCGS discharge. Based on this comment, the NRC staff did not revise the final EA.

NJDEP Comment Number 4: The potential impacts to aquatic biota from the proposed action are primarily due to operation of the cooling water system withdraws. Although no volume and/or velocity changes to the circulating water or service water systems are expected due to the proposed EPU, the DFW continues to be concerned for the destruction of fish and/or shellfish species via intake and discharge of water at this plant. While the identity of species potentially affected by entrainment, impingement, and heat shock may be inferred from ecological information about the Delaware Estuary, the species affected cannot be verified, and the numbers cannot be quantified because no environmental monitoring programs are conducted at the facility. It is expected that a percentage of

impinged organisms may likely die, partially due to the fish-return system not functioning continuously to minimize mortality at present. It is expected all organisms entrained at HCGS are probably killed from exposure to heat, mechanical, pressure-related stresses, and/or biocidal treatment before being discharged to the estuary. Although the proposed action would not change the volume or rate of cooling water withdrawn, the DFW has concerns regarding the number of individual fish and shellfish, larvae and eggs destroyed by the plant and any associated temperature rise in the Delaware Estuary. The entrainment kill should be verified to species and quantified in the future to address these concerns. It is anticipated that any new processes that are developed for the other Salem units to increase impingement survivability and decrease entrainment will be employed by this plant as well automatically.

NRC Response Number 4: Under the proposed EPU, water withdrawal rates would not change from present conditions. Entrainment and impingement impacts may change over time due to changes in the aquatic populations even though HCGS's water withdrawal rate would not change from present conditions. Impacts due to impingement and entrainment losses are minimized because the closed-cycle cooling system at the plant minimizes the amount of cooling water withdrawn from and heated effluent returned to the estuary. The water quality of the effluent (e.g., temperature, toxicity, TDS concentrations) would continue to meet present NJPDES permit conditions for protection of aquatic life. The staff concludes that the proposed EPU would have no significant impact to aquatic biota. Impingement and entrainment effects are regulated by NJDEP under Clean Water Act 316(b), and heat shock is regulated by NJDEP under 316(a) as part of NJPDES permitting. NJPDES permit levels are not part of NRC jurisdiction. Based on this comment, the NRC staff did not revise the final EA.

NJDEP Comment Number 5: National Marine Fisheries Service (NMFS) issued a letter dated January 26, 2007, that provided information on the endangered shortnose sturgeon; Atlantic sturgeon, a candidate species for listing; and five species of endangered or threatened sea turtles: Loggerhead, Kemp's ridley, leatherback, green, and hawksbill turtles. The Nuclear Regulatory Commission (NRC) staff investigated the effects of the HCGS operation on these species and found that the primary concern for these endangered and threatened species is the risk of

impingement or entrainment due to cooling water intake by the plant. The HCGS has reported no takes of any of the endangered or threatened species listed above. Although the proposed EPU would not change the intake flow, and, therefore, would not increase impingement and entrainment of these species, the DFW remains concerned regarding potential takes of endangered species.

NRC Response Number 5: Under the proposed EPU, water withdrawal rates would not change from present conditions. Entrainment and impingement impacts may change over time due to changes in the aquatic populations even though HCGS's water withdrawal rate would not change from present conditions. Impacts due to impingement and entrainment losses are minimized because the closed-cycle cooling system at the plant minimizes the amount of cooling water withdrawn from and heated effluent returned to the estuary. The water quality of the effluent (e.g., temperature, toxicity, TDS concentrations) would continue to meet present NJPDES permit conditions for protection of aquatic life. The staff concludes that the proposed EPU would have no significant impact to aquatic biota. Impingement and entrainment effects are regulated by NJDEP under Clean Water Act 316(b), and heat shock is regulated by NJDEP under 316(a) as part of NJPDES permitting. NJPDES permit levels are not part of NRC jurisdiction. Based on this comment, the NRC staff did not revise the final EA.

NJDEP Comment Number 6: The EA notes that an Essential Fish Habitat (EFH) for the proposed EPU was sent to the National Marine Fisheries Service (NMFS) under separate cover to initiate an EFH consultation. We recommend that the NRC should issue no final decision on this proposal until NMFS consultations are concluded.

NRC Response Number 6: The staff agrees with this comment. By letter dated July 13, 2007 (ADAMS Accession No. ML072000450), NMFS found the EFH assessment satisfactory. Based on this comment, the NRC staff revised the appropriate section of the final EA.

NJDEP Comment Number 7: No impacts are expected to avian species.

NRC Response Number 7: The staff agrees with this comment; however, no changes to the final EA are warranted.

NJDEP Comment Number 8: According to the EA, no changes to the Hope Creek Generating Station circulating water or service water systems are expected due to the proposed EPU; therefore, the proposed EPU would not increase the amount of water withdrawn from or discharged to

the Delaware Estuary. As a result, the intake issue appears to be unaffected by the power re-rating.

NRC Response Number 8: The staff agrees with this comment; however, no changes to the final EA are warranted.

NJDEP Comment Number 9: This Bureau has determined that because the permittee is willing to comply with its current discharge limits, the regulation of the discharge via NJPDES appears to be unaffected by the power re-rating. In the current NJPDES permit, there is no effluent flow limit and there is no total dissolved solids (TDS) requirement since the facility discharges to saline waters. This is due to the fact that there are currently no New Jersey Surface Water Quality Standards for TDS. Through the administering of the NJPDES program, this Bureau will continue to require effluent characterization of the cooling tower blowdown to monitor any changes to the toxic pollutants that may or may not occur due to the proposed EPU.

NRC Response Number 9: The staff agrees with this comment; however, no changes to the final EA are warranted.

NJDEP Comment Number 10: The information contained in the EA indicates that the power output of the reactor will increase approximately 15-percent. It can be concluded that this power increase will raise magnetic field emissions from the lines and therefore, elevate magnetic fields along the right-of-way. These changes will increase the magnetic field exposure of the population living closer than 400 feet from the center of the transmission line configuration. At this point in time, the consensus among the scientific community is that there is inconclusive evidence to suggest that long-term exposure to magnetic fields from power lines would result in adverse health outcomes. However, for new or modified lines, many health-based organizations are still recommending reducing magnetic fields if low or no-cost options exist. In a June 2007 fact sheet put forth from the World Health Organization (WHO Fact sheet No. 322), the following guidance is issued: "When constructing new facilities and designing new equipment low-cost ways of reducing exposures may be explored." Therefore, in light of such uncertainty, if there are any changes that will be made to the power delivery system that would lower the magnetic fields from the power lines, it may be prudent to explore such options.

NRC Response Number 10: The proposed EPU does not require the modification or building of new transmission lines. Therefore, the guidance in WHO Fact Sheet No. 322 is

not applicable. There is no scientific consensus regarding the health effects of electromagnetic fields (EMFs) produced by operating transmission lines.

Therefore, the licensee did not quantify the chronic effects of EMF on human and biota. The potential for chronic effects for these fields continues to be studied and is not known at this time. The National Institute of *Environmental Health Sciences* (NIEHS) directs related research through the U.S Department of Energy (DOE). A 2003 NIEHS study published in *Environmental Health Perspectives*, Volume 111, Number 3, March 2003, titled "Power-Line Frequency Electromagnetic Fields Do Not Induce Changes in Phosphorylation, Localization, or Expression of the 27-Kilodalton Heat Shock Protein in Human Keratinocytes" by Biao Shi, Behnom Farhoud, Richard Nuccitelli, and R. Rivkah Isseroff of the University of California—Davis contains the following conclusion:

"The linkage of the exposure to the power-line frequency (50–60 Hz) electromagnetic fields (EMF) with human cancers remains controversial after more than 10 years of study. The *in vitro* studies on the adverse effects of EMF on human cells have not yielded a clear conclusion. In this study, we investigated whether power-line frequency EMF could act as an environmental insult to invoke stress responses in human keratinocytes using the 27-kDa heat shock protein (HSP27) as a stress marker. After exposure to 1 gauss (100 μ T) EMF from 20 min to 24 hr, the isoform pattern of HSP27 in keratinocytes remained unchanged, suggesting that EMF did not induce the phosphorylation of this stress protein. EMF exposure also failed to induce the translocation of HSP27 from the cytoplasm to the nucleus. Moreover, EMF exposure did not increase the abundance of HSP27 in keratinocytes. In addition, we found no evidence that EMF exposure enhanced the level of the 70-kDa heat shock protein (HSP70) in breast or leukemia cells as reported previously. Therefore, in this study we did not detect any of a number of stress responses in human keratinocytes exposed to power-line frequency EMF."

To date, there is not sufficient data to cause the NRC staff to change its position with respect to the chronic effects of electromagnetic fields. If in the future, the NRC staff finds that, contrary to current indications, a consensus has been reached by appropriate Federal health agencies that there are adverse health effects from electromagnetic fields, the NRC staff will recommend to the Commission to change its current position regarding EMF. The NRC staff did not revise the final EA based on this comment.

NJDEP Comment Number 11: The NJDEP's Air Quality Permitting Office approved the Title V air permit

modification for this project on August 7, 2007. This approval along with a request for a single source state implementation plan (SIP) for a variance to Subchapter 6 was sent to the Environmental Protection Agency (EPA) on November 2, 2007. The Air Quality Permitting Office has not yet received a response from the EPA.

NRC Response Number 11: The staff agrees with this comment; however, no changes to the final EA are warranted.

Environmental Assessment

Plant Site and Environs

HCGS is located on the southern part of Artificial Island, on the east bank of the Delaware River, in Lower Alloways Creek Township, Salem County, New Jersey. While called Artificial Island, the site is actually connected to the mainland of New Jersey by a strip of tideland, formed by hydraulic fill from dredging operations on the Delaware River by the U.S. Army Corps of Engineers. The site is 15 miles south of the Delaware Memorial Bridge, 18 miles south of Wilmington, Delaware, 30 miles southwest of Philadelphia, Pennsylvania, and 7.5 miles southwest of Salem, New Jersey. The station is located on a 300-acre site.

The site is located in the southern region of the Delaware River Valley, which is defined as the area immediately adjacent to the Delaware River and extending from Trenton to Cape May Point, New Jersey, on the eastern side, and from Morrisville, Pennsylvania, to Lewes, Delaware, on the western side. This region is characterized by extensive tidal marshlands and low-lying meadowlands. Most land in this area is undeveloped. A great deal of land adjacent to the Delaware River, near the site, is public land, owned by the Federal and State governments. The main access to the plant is from a road constructed by PSEG. This road connects with Alloways Creek Neck Road, about 2.5 miles, east of the site. Access to the plant site and all activities thereon are under the control of PSEG.

Identification of the Proposed Action

HCGS is a single unit plant that employs a General Electric BWR that was designed to operate at a rated core thermal power of 3,339 MWt, at 100-percent steam flow, with a turbine-generated rating of approximately 1,139 megawatts-electric (MWe).

In 1984, NRC issued operating license NPF-57 to HCGS, authorizing operation up to a maximum power level of 3,293 MWt. In 2001, NRC authorized a license amendment for a 1.4 percent power

uprate from 3,293 MWt to 3,339 MWt and issued an Environmental Assessment and Finding of No Significant Impact for Increase in Allowable Thermal Power Level (NRC 2001).

By letter dated September 18, 2006, PSEG proposed an amendment to the operating license for HCGS, to increase the maximum thermal power level by approximately 15 percent, from 3,339 MWt to 3,840 MWt. The change is considered an EPU because it would raise the reactor core power levels more than 7 percent above the originally licensed maximum power level.

The Need for the Proposed Action

PSEG (2005) evaluated the need for additional electrical generation capacity in its service area for the planning period of 2002–2011. Information provided by the North American Electric Reliability Council showed that, in order to meet projected demands, generating capacity must be increased by at least 2 percent per year for the Mid-Atlantic Area Council and the PJM Interconnection, LLC (PSEG 2005). Such demand increase would exceed PSEG's capacity to generate electricity for its customers.

PSEG determined that a combination of increased power generation and purchase of power from the electrical grid would be needed to meet the projected demands. Increasing the generating capacity at HCGS was estimated to provide lower-cost power than can be purchased on the current and projected energy market. In addition, increasing nuclear generating capacity would lessen the need to depend on fossil fuel alternatives that are subject to unpredictable cost fluctuations and increasing environmental costs.

Environmental Impacts of the Proposed Action

This EA summarizes the non-radiological and radiological impacts that may result from the proposed action.

Non-Radiological Impacts

Land Use Impacts

The potential impacts associated with land use (including aesthetics and historic and archaeological resources) include impacts from construction and plant modifications at HCGS. While some plant components would be modified, most plant changes related to the proposed EPU would occur within existing structures, buildings, and fenced equipment yards housing major components within the developed part

of the site. No new construction would occur, and no expansion of buildings, roads, parking lots, equipment storage areas, or transmission facilities would be required to support the proposed EPU (PSEG 2005).

Existing parking lots, road access, offices, workshops, warehouses, and restrooms would be used during construction and plant modifications. Therefore, land use would not change at HCGS. In addition, there would be no land use changes along transmission lines (no new lines would be required for the proposed EPU), transmission corridors, switchyards, or substations. Because land use conditions would not change at HCGS and because any disturbance would occur within previously disturbed areas, there would be no impact to aesthetic resources and historic and archeological resources in the vicinity of HCGS (PSEG 2005).

The Coastal Zone Management Act (CZMA) was promulgated to encourage and assist States and territories in developing management programs that preserve, protect, develop, and, where possible, restore the resources of the coastal zone. A "coastal zone" is generally described as the coastal waters and the adjacent shore lands strongly influenced by each other. This includes islands, transitional and intertidal areas, salt marshes, wetlands, beaches, and Great Lakes waters. Activities of Federal agencies that are reasonably likely to affect coastal zones shall be consistent with the approved coastal management program (CMP) of the State or territory to the maximum extent practical. The CZMA provisions apply to all actions requiring Federal approval (new plant licenses, license renewals, materials licenses, and major amendments to existing licenses) that affect the coastal zone in a State or territory with a Federally approved CMP. The proposed EPU is subject to the Federal Consistency provisions of the Federal Coastal Zone Management Act (CZMA), and as such, a Federal Consistency determination is required. On April 23, 2007, PSEG submitted an application requesting the State of New Jersey to perform the Federal Consistency determination in accordance with CZMA. On July 3, 2007, the New Jersey Department of Environmental Protection (NJDEP) Land Use Regulation Program, acting under Section 307 of the Federal Coastal Management Act, issued the Federal Consistency certification for the proposed EPU.

The impacts of continued operation of HCGS under EPU conditions are bounded by the evaluation in the FES for operation (NRC 1984). Therefore, the potential impacts to land use, aesthetics,

and historic and archaeological resources from the proposed EPU would not be significant.

Cooling Tower Impacts

HCGS has one natural draft cooling tower that is currently used to reduce the heat output to the environment. The potential impacts associated with cooling tower operation under the proposed EPU could affect aesthetics, salt drift deposition, noise, fogging or icing, wildlife, and particulate emissions.

The proposed EPU would not result in significant changes to aesthetics such as cooling tower plume dimension at HCGS. Atmospheric emissions from the natural draft cooling tower consist primarily of waste heat and water vapor resulting in persistent cloudlike plumes. The size of the cooling tower plume depends on the meteorological conditions such as temperature, dew point, and relative humidity. For the proposed EPU, NRC does not anticipate any change in the dimension of the plume under equivalent meteorological conditions as evaluated in the FES.

Therefore, the NRC staff concludes that there would be no significant aesthetic impacts associated with HCGS cooling tower operation for the proposed action.

Native, exotic, and agricultural plant productivity may be adversely affected by the increased salt concentration in the drift deposited directly on soils or directly on foliage. FES has indicated that the salt drift deposition must be above 90 lbs/acre/year before agriculture plant productivity would be reduced. PSEG has estimated that the proposed EPU would not significantly increase the rate of salt drift deposition from the increase in cooling tower operation. PSEG has estimated that the increase in salt drift deposition rate would be 9 percent to a maximum of 0.109 lbs/acre/year. Therefore, the NRC staff concludes that there would be no significant salt drift deposition impacts associated with HCGS cooling tower operation for the proposed action.

Because the HCGS cooling tower is natural draft, no increase in noise is expected. Therefore, the NRC staff concludes that there would be no significant noise impacts associated with HCGS cooling tower operation for the proposed action.

PSEG has indicated that there would be no significant increase in fogging or icing expected for the proposed EPU. Increased ground-level fogging and icing resulting from water droplets in the cooling tower drift may interfere with highway traffic. The 1984 FES evaluated the impacts of fogging and icing associated with the operation of the

natural draft cooling tower at HCGS and found these impacts to be insignificant and inconsequential. The fact that the nearest agricultural or residential land is located several miles from the site further minimizes the potential for impact. Therefore, the NRC staff concludes that there would be no significant fogging or icing impacts associated with HCGS cooling tower operation for the proposed action.

The 1984 FES has stated that although some birds may collide with cooling tower, unpublished surveys at existing cooling towers indicated that the number would be relatively small. The proposed EPU would not increase the risk of wildlife colliding with cooling tower. Therefore, the NRC staff concludes that there would be no significant wildlife impacts associated with HCGS cooling tower operation for the proposed action.

The proposed EPU would increase the particulates emission rate from the HCGS cooling tower, from the current permitted rate of 29.4 pounds per hour (lbs/hr) to a rate of 35.6 lbs/hr (maximum 42.0 lbs/hr). Particulates (primarily salts) from the cooling tower have an aerodynamic particle size of less than 10 microns in diameter (PM₁₀). The NJDEP has imposed a maximum hourly emission rate for particulates at 30 lbs/hr. Therefore, the projected particulate emission rate from the HCGS cooling tower, due to the proposed EPU, could exceed the NJDEP emission regulatory limit. On March 30, 2007, NJDEP issued a Public Notice and Draft Title V Air Operating Permit for the HCGS cooling tower, proposing to authorize a variance to the HCGS air operating permit with an hourly emission rate of 42 lbs/hr (NJDEP 2007a). On June 13, 2007, NJDEP issued the final Title V Air Operating Permit for HCGS allowing a 42 lbs/hr particulate emission rate for the proposed EPU upon approval of the State Implementation Plan by USEPA.

Since particulates from HCGS cooling tower consist primarily of salts with particle size of less than 10 microns, the FES evaluated the environmental impacts on air quality and found the impacts to be minor. Furthermore, a prevention of significant deterioration (PSD) non-applicability analysis was submitted to the U.S. Environmental Protection Agency (EPA) Region 2, by PSEG on March 4, 2004. Based on the information provided by PSEG, EPA concluded that the EPU project would not result in a significant increase in emissions and would not be subject to PSD review (ML071240216). In addition, NJDEP has stated that the Bureau of Technical Services reviewed

the Air Quality Modeling for the proposed Hope Creek uprate project and determined that the project would meet the National Ambient Air Quality Standards and the New Jersey Ambient Air Quality Standards. Therefore, the NRC staff concludes that there would be no significant particulate emission impacts associated with HCGS cooling tower operation for the proposed action.

Transmission Facility Impacts

The potential impacts associated with transmission facilities include changes in transmission line right-of-way (ROW) maintenance and electric shock hazards due to increased current. The proposed EPU would not require any physical modifications to the transmission lines.

PSEG's transmission line ROW maintenance practices, including the management of vegetation growth, would not change. PSEG did not provide an estimate of the increase in the operating voltage due to the EPU. Based on experience from EPUs at other plants, the NRC staff concludes that the increase in the operating voltage would be negligible. Because the voltage would not change significantly, there would be no significant change in the potential for electric shock. Modifications to onsite transmission equipment are necessary to support the EPU; such changes include replacement of the high- and low-pressure turbines, and the replacement of the main transformer (PSEG 2005). No long-term environmental impacts from these replacements are anticipated.

The proposed EPU would increase the current, which would affect the electromagnetic field. The National Electric Safety Code (NESC) provides design criteria that limit hazards from steady-state currents. The NESC limits the short-circuit current to the ground to less than 5 milliamperes. The transmission lines meet the applicable shock prevention provision of the NESC. Therefore, even with the slight increase in current attributable to the EPU, adequate protection is provided against hazards from electrical shock.

There would be an increase in current passing through the transmission lines associated with the increased power level of the proposed EPU. The increased electrical current passing through the transmission lines would cause an increase in electromagnetic field strength. However, there is no scientific consensus regarding the health effects of electromagnetic fields (EMFs) produced by operating transmission lines. Therefore, the licensee did not quantify the chronic effects of EMF on human and biota. The potential for chronic effects for these fields continues to be studied and is not

known at this time. The National Institute of Environmental Health Sciences (NIEHS) directs related research through the U.S. Department of Energy (DOE). A 2003 NIEHS study published in *Environmental Health Perspectives*, Volume 111, Number 3, March 2003, titled "Power-Line Frequency Electromagnetic Fields Do Not Induce Changes in Phosphorylation, Localization, or Expression of the 27-Kilodalton Heat Shock Protein in Human Keratinocytes" by Biao Shi, Behnom Farhoud, Richard Nuccitelli, and R. Rivkah Isseroff of the University of California—Davis contains the following conclusion:

"The linkage of the exposure to the power-line frequency (50–60 Hz) electromagnetic fields (EMF) with human cancers remains controversial after more than 10 years of study. The in vitro studies on the adverse effects of EMF on human cells have not yielded a clear conclusion. In this study, we investigated whether power-line frequency EMF could act as an environmental insult to invoke stress responses in human keratinocytes using the 27-kDa heat shock protein (HSP27) as a stress marker. After exposure to 1 gauss (100 μ T) EMF from 20 min to 24 hr, the isoform pattern of HSP27 in keratinocytes remained unchanged, suggesting that EMF did not induce the phosphorylation of this stress protein. EMF exposure also failed to induce the translocation of HSP27 from the cytoplasm to the nucleus. Moreover, EMF exposure did not increase the abundance of HSP27 in keratinocytes. In addition, we found no evidence that EMF exposure enhanced the level of the 70-kDa heat shock protein (HSP70) in breast or leukemia cells as reported previously. Therefore, in this study we did not detect any of a number of stress responses in human keratinocytes exposed to power-line frequency EMF."

To date, there is not sufficient data to cause the NRC staff to change its position with respect to the chronic effects of electromagnetic fields. If in the future, the NRC staff finds that, contrary to current indications, a consensus has been reached by appropriate Federal health agencies that there are adverse health effects from electromagnetic fields, the NRC staff will recommend to the Commission to change its current position regard EMF.

The 1984 FES evaluated bird mortality resulting from collision with towers and conductors. The FES has estimated that only 0.07 percent of the mortality of waterfowl from causes other than hunting resulted from collision with towers and conductors at HCGS. Because the proposed EPU does not require physical modifications to the transmission line system, the additional impacts of bird mortality would be minimal.

The impacts associated with transmission facilities for the proposed action would not change significantly relative to the impacts from current plant operation. There would be no physical modifications to the transmission lines, transmission line ROW maintenance practices would not change, there would be no changes to transmission line ROW or vertical ground clearances, and electric current passing through the transmission lines would increase only slightly. Therefore, the NRC staff concludes there would be no significant impacts associated with transmission facilities for the proposed action.

Water Use Impacts

Potential water use impacts from the proposed EPU include localized effects on the Delaware Estuary and changes to plant water supply. HCGS is located on the eastern shore of the Delaware Estuary. The estuary is approximately 2.5 miles wide, and the tidal flow past HCGS is approximately 259,000 million gallons per day (MGD) (NRC 2001). The Delaware Estuary is the source of cooling water for the HCGS circulating water system, a closed-cycle system that utilizes a natural draft cooling tower. During normal plant operations, water usage at HCGS accounts for less than 0.03 percent of the average tidal flow of the Delaware Estuary (PSEG 2005).

HCGS's service water system withdraws approximately 67 MGD from the Delaware Estuary for cooling and makeup water. When estuary water temperature is less than 70 degrees Fahrenheit ($^{\circ}$ F), two pumps operate to supply an average service water flow rate of approximately 37,000 gallons per minute (gpm). When estuary water temperature is greater than 70 $^{\circ}$ F, three pumps operate to supply an average service water flow rate of approximately 52,000 gpm (Najarian Associates 2004). Estuary water is delivered to the cooling tower basin and acts primarily as makeup water to the circulating water system—replacing 47 MGD that are returned to the estuary as cooling tower blowdown, and depending upon meteorological conditions and the circulating water flow rate, replacing approximately 10–13 MGD of cooling water that are lost through evaporation from the cooling tower. Approximately 7 MGD of the 67 MGD are used for intake screen wash water and strainer backwash. The circulating water system has an operating capacity of 11 million gallons; however, approximately 9 million gallons of water actually reside in the circulating water system at any given time. Water is re-circulated through the condensers at a rate of

approximately 550,000 gpm (PSEG 2005). No changes to the HCGS circulating water or service water systems are expected due to the proposed EPU; therefore, the proposed EPU would not increase the amount of water withdrawn from or discharged to the Delaware Estuary.

Consumptive use of surface water by HCGS is not expected to change substantively as a result of the proposed EPU and is regulated by the Delaware River Basin Commission (DRBC) through a water use contract. The proposed EPU would likely result in a small increase in cooling tower blowdown temperature. To mitigate this temperature increase, PSEG has modified its cooling tower to improve its thermal performance, and as discussed in the following section, thermal discharge to the Delaware Estuary would remain within the regulatory limits set by the New Jersey Pollutant Discharge Elimination System (NJPDDES) permit granted to HCGS by NJDEP (PSEG2005; NJDEP 2002).

Two groundwater wells access the Raritan aquifer to provide domestic and process water to HCGS. The wells are permitted by NJDEP and are also regulated by DRBC. The proposed EPU would not increase the use of groundwater by HCGS or change the limits of groundwater use currently set by DRBC (PSEG 2005). As such, the conclusions in the 1984 FES regarding groundwater use at HCGS would remain valid for the proposed EPU.

The proposed EPU would not increase the amount of surface water withdrawn from the Delaware Estuary and groundwater use at HCGS would not increase. Therefore, the NRC staff concludes the proposed EPU would have negligible water use impacts on the estuary.

Discharge Impacts

Potential impacts to a water body from power plant discharge include increased turbidity, scouring, erosion, sedimentation, contamination, and water temperature. The proposed EPU would not increase the amount of cooling tower blowdown discharged to the Delaware Estuary; therefore, the turbidity, scouring, erosion, and sedimentation would not be expected to significantly change. Additionally, the proposed EPU would not introduce any new contaminants to the Delaware Estuary and would not significantly increase any potential contaminants that are presently regulated by the station's NJPDDES permit. The concentration of total dissolved solids (TDS) in the cooling tower blowdown would increase due to the increased rate of

evaporation; however, the amount of blowdown discharged to the estuary would decrease, and the concentration of TDS would remain within the station's air permit limits.

Although the amount of water withdrawn from the Delaware Estuary would remain unchanged, the proposed EPU would result in a slight increase in the temperature of the cooling tower blowdown discharged to the estuary. The station's NJPDES permit imposes limits on the temperature of the blowdown and the amount of heat rejected to the estuary by the HCGS circulating water system. The NJDES permit specifies that the 24-hour average maximum blowdown temperature is limited to 97.1 °F, and heat rejection is limited to 662 million British thermal units per hour (MBTU/hr) from September 1 through May 31 and 534 MBTU/hr from June 1 through August 31. DRBC also imposes thermal regulations on HCGS through the NJPDES permit, specifying that the net temperature increase of the Delaware Estuary may not exceed 4 °F from September through May, and 1.5 °F from June through August or estuary water temperature may not exceed a maximum of 86 °F, whichever is less. These limitations apply to waters outside of the heat dissipation area, which extends 2,500 feet upstream and downstream of the discharge point and 1,500 feet offshore from the discharge point. The licensee has performed hydrothermal modeling analysis for the HCGS EPU and concluded that the plant would continue to meet the requirements of the NJPDES permit.

The 1984 FES concluded that the station's shoreline discharge would not adversely affect the estuary because of its large tidal influence, which would dilute, mix, and rapidly dissipate the heated effluent (PSEG 2005). Hydrothermal modeling conducted for the proposed EPU determined that, even during extreme meteorological conditions, the post-EPU increase in cooling tower blowdown temperature would not exceed 91.7 °F, and the station would continue to comply with all applicable Delaware Estuary water quality standards set by the station's NJPDES permit and DRBC (Najarian Associates 2004).

In addition to setting thermal discharge limits, the NJPDES permit also regulates all surface and wastewater discharges from the station. The NJPDES permit, effective March 1, 2003, regulates discharge from six outfalls at HCGS, including the cooling tower

blowdown, low volume oily wastewater, stormwater, and sewage treatment; these discharges ultimately flow to the Delaware Estuary. As required by the NJPDES permit, in addition to temperature, cooling tower blowdown is monitored for flow, pH, chlorine produced oxidants (CPOs), and total organic carbon. HCGS operates a dechlorination system that utilizes ammonium bisulfate to reduce CPOs in the blowdown. Furthermore, acute and chronic biological toxicity tests were routinely performed on cooling tower blowdown from 1998 through 2001 and are performed at each NJDES Permit renewal to comply with NJDEP non-toxicity regulations (PSEG 2005).

The NJPDES permit sets monitoring, sampling, and reporting requirements for all HCGS discharges. The NRC staff performed a search of the NJDEP *Open Public Records Act* Datamine online database which revealed no water quality violations for HCGS (NJDEP 2007).

With the exception of increased blowdown temperature and TDS concentration, as discussed above, the proposed EPU would not be expected to alter the composition or volume of any other effluents, including stormwater drainage, oily water, and sewage treatment (PSEG 2005). Blowdown temperature and composition, and Delaware Estuary water temperatures would remain in compliance with the station's NJPDES permit, and the proposed EPU would not result in changes in any other effluents to the estuary. Therefore, the NRC staff concludes that the proposed EPU would result in negligible impacts on the Delaware Estuary from HCGS discharge.

Impacts on Aquatic Biota

The potential impacts to aquatic biota from the proposed action are primarily due to operation of the cooling water system and to maintain the transmission line ROWs. Cooling water withdrawal affects aquatic populations through impingement of larger individuals (e.g., fish, some crustaceans, turtles) on the intake trash bars and debris screens and entrainment of smaller organisms that pass through the screens into the cooling water system. The proposed action would not change the volume or rate of cooling water withdrawn. Most of the additional heat generated under the proposed EPU would be dissipated by the cooling tower, and PSEG proposes no changes to the cooling water system.

Discharge of heated effluent alters natural thermal and current regimes and

can induce thermal shock in aquatic organisms. The HCGS effluent would change under the proposed EPU. Because the volume of makeup water withdrawn from the estuary would remain unchanged and the volume of evaporative loss from the cooling tower would increase, the volume of the blowdown released as effluent, which is the difference between the water withdrawn and the water lost to evaporation, would decrease. The increased evaporation would leave behind more solids in the blowdown, so the concentration of TDS in the effluent would be an average of about 9 percent higher than under current operations (Najarian Associates 2004). The effluent would also be somewhat warmer, but modeling predicts that all present NJPDES permit conditions for the effluent would still be met (Najarian Associates 2004).

PSEG proposes no new transmission line ROWs and no change in current maintenance procedures for transmission line ROWs under the proposed EPU, so this potential source of impact will not be considered further for aquatic resources.

The potential receptors of the environmental stressors of impingement, entrainment, and heat shock are the aquatic communities in the Delaware Estuary near HCGS. Ecologists typically divide such communities into the following categories for convenience when considering ecological impacts of power plants: microbes, phytoplankton, submerged aquatic vegetation, invertebrate zooplankton, benthic invertebrates, fish, and sometimes birds, reptiles (e.g., sea turtles), and marine mammals. Of these, effects of power plant operation have been consistently demonstrated only for fish.

Unless otherwise noted, the following information on Delaware Estuary fish and blue crab (*Callinectes sapidus*) is from information summarized in the 2006 Salem NJPDES Permit Application (NJDEP 2006). Salem is an adjacent nuclear power plant that has conducted several large studies in support of permitting of its once-through cooling water system. About 200 species of fish have been reported from the Delaware Estuary. Some are resident, some are seasonal migrants, and some are occasional strays. In its NJPDES Permit Application, PSEG selected 11 species, one invertebrate and ten fish, as species representative of the aquatic community (Table 1).

TABLE 1.—SPECIES REPRESENTATIVE OF THE DELAWARE ESTUARY AQUATIC COMMUNITY NEAR ARTIFICIAL ISLAND

Common name	Scientific name	Comment
Blue Crab	<i>Callinectes sapidus</i>	Swimming crab, abundant in the estuary. Recreational and commercial species.
Alewife	<i>Alosa pseudoharengus</i>	Anadromous herring; abundant in the estuary.
American Shad	<i>Alosa sapidissima</i>	Anadromous herring; abundant in the estuary. Recreational and commercial species.
Atlantic Croaker	<i>Micropogonias undulatus</i>	Drum family. Atlantic coast population is considered a single stock. Recreational and commercial species.
Atlantic Menhaden	<i>Brevoortia tyrannus</i>	Herring. Larvae and juveniles use the estuary as a nursery. Commercial species.
Atlantic Silverside	<i>Menidia menidia</i>	Resident in intertidal marsh creeks and shore zones.
Bay Anchovy	<i>Anchoa mitchelli</i>	Common in the bay and tidal river zones.
Blueback Herring	<i>Alosa aestivalis</i>	Anadromous herring; abundant in the estuary.
Spot	<i>Leiostomus xanthurus</i>	Drum family. Juveniles use the estuary as a nursery. Recreational and commercial species.
Striped Bass	<i>Morone saxatilis</i>	Anadromous temperate bass. Recreational and commercial species.
Weakfish	<i>Cynoscion regalis</i>	Drum family. Larvae and juveniles use the estuary as nursery. Recreational and commercial species.
White Perch	<i>Morone americana</i>	Temperate bass. Year-round residents anadromous within estuary. Recreational species.

Source: NJDEP 2006.

HCGS is located in the Delaware Estuary between the Delaware River upstream and the wide Delaware Bay downstream. Estuaries are drowned river valleys where fresh water from rivers mixes with the higher salinity water of the ocean and bays. In estuaries, salinity and water temperature may change with season, tides, and meteorological conditions. Typically, few species are resident in an estuary all of their lives, perhaps because surviving the wide variations in salinity and temperature poses physiological challenges to fish and invertebrates. The predominant resident fish species in the Delaware Estuary are hogchoker (*Trinectes maculatus*), white perch (*Morone americana*), bay anchovy (*Anchoa mitchelli*), Atlantic and inland silversides (*Menidia menidia* and *M. beryllina*, respectively), naked goby (*Gobiosoma bosc*), and mummichog (*Fundulus heteroclitus*).

Resident fish species are represented by Atlantic silversides, bay anchovy, and white perch (Table 1). Atlantic silversides are relatively small common fish that inhabit intertidal creeks and shore zones. They mature in less than a year and seldom live beyond 2 years. Although there may be no discernable long-term trend in abundance in the Delaware Estuary, the short-term trend appears to be decreasing abundance. Bay anchovy may be the most abundant species in the estuary. This small fish overwinters in deep areas of the lower estuary and near-shore coastal zone. Though bay anchovies tend to stay in the lower part of the estuary, they stray as far north as Trenton. They tend to mature in the summer following their birth. Typically two spawning peaks occur, one in late May and one in mid-July, although some spawning occurs all summer. Most spawning occurs where

salinity exceeds 20 parts per thousand (ppt), but some spawning may occur throughout the estuary. Although no long-term trend in abundance is evident, abundance since the mid-1990s appears to be declining. White perch are found throughout the brackish portions of the estuary. They are anadromous within the estuary ("semi-anadromous"), meaning that they undergo a seasonal migration from the deeper, more saline areas where they overwinter in fresh, shallow waters in the spring to spawn and then return to more brackish waters. They typically mature in 2 to 3 years. The abundance of white perch in the Delaware Estuary appears to be stable or increasing, possibly in response to long-term improvements in water quality.

Adult blue crabs are resident macro-invertebrates in the Delaware Estuary, although their larvae are not. After mating in shallow brackish areas of the upper estuary in spring, adult females migrate to the mouth of the bay. The eggs, which are extruded and carried on the undersides of females, hatch typically in the warm (77–86 °F), high salinity (18–26 ppt) waters of the lower bay in summer. After hatching, the larvae pass through seven planktonic stages, called zoeae, and move offshore with near-shore surface currents. The first post-larval stage, called a megalops, uses wind-driven currents and tides to move inshore. They then metamorphose to the first crab stage and move up the estuary. Adult male crabs do not migrate from the upper estuary. Crabs typically mature when 1 or 2 years old. Between 1980 and 2004, blue crab abundance in the Delaware Estuary appears to have increased.

Anadromous species live their adult lives at sea and migrate into fresh water to spawn. The most common

anadromous fish species in the Delaware Estuary are alewife (*Alosa pseudoharengus*), American shad (*A. sapidissima*), blueback herring (*A. aestivalis*), and striped bass (*Morone saxatilis*), of which the first three are members of the herring family. The endangered shortnose sturgeon (*Acipenser brevirostrum*) is also anadromous. The ecology of the three herrings is similar, as is their appearance. All use the estuary as spawning and nursery habitat. All migrate to fresh water in the spring and are believed to return to their natal streams to spawn. The newly hatched larvae are planktonic and move downstream with the current. Juveniles remain in freshwater nursery areas throughout the summer and migrate to sea in the fall. They then remain at sea until maturity and migrate along the coast. Alewife have become more abundant since 1980, although the trend since 1990 is unclear. Abundance of American shad in the Delaware Estuary drastically declined in the early 1900s due to poor water quality, dam construction, over-fishing, and habitat destruction. American shad began to recover in the 1960s and 1980s and appears to be recovering still. No trends are evident in blueback herring abundance.

Striped bass is a fairly large member of the temperate bass family, which also includes white perch. Adult striped bass, which may reach weights of over 100 pounds, migrate up the estuary to fresh and brackish waters in the spring to spawn and are believed to return to their natal rivers and streams for spawning. The newly hatched larvae are planktonic and move downstream with the current. Small juveniles use fresh and brackish areas as nurseries, and larger juveniles use the higher salinity

waters of the lower estuary as feeding grounds. Adult striped bass live at sea and the lower estuary and migrate along the coast. Like American shad, the striped bass population in the Delaware Estuary declined prior to the 1980s but is now recovering.

The most common marine species that use the estuary include weakfish (*Cynoscion regalis*), spot (*Leiostomus xanthurus*), Atlantic croaker (*Micropogonias undulatus*), bluefish (*Pomatomus saltatrix*), summer flounder (*Paralichthys dentatus*), and Atlantic menhaden (*Brevoortia tyrannus*). Four of these, weakfish, spot, Atlantic croaker, and Atlantic menhaden, are shown as representative in Table 1. Atlantic croaker, spot, and weakfish are members of the drum family. Adult Atlantic croaker inhabit the deep, open areas of the lower bay from late spring through mid-fall. They spawn from July through April along the continental shelf. Larval Atlantic croaker first move with the currents and later move to the shallow areas of the bay. Juveniles use the shallow areas and tidal creeks in fresh and brackish water as nurseries, but move into deeper water during colder periods. They mature at about 2 to 4 years of age. Abundance of Atlantic croaker in the Delaware Estuary has been increasing since the early 1990s. Spot spawn over the continental shelf from late September through April. Larvae live in the ocean then move to the Bay. The young juveniles move upstream into tidal creeks and tributaries with low salinity. Like Atlantic croaker, spot move into deeper water during colder periods. Spot mature at 1 to 3 years old. Abundance of spot appears to be negatively related to the abundance of Atlantic croaker and has been decreasing. Weakfish spawn in the mouth of Delaware Bay in mid-May through mid-September, and after hatching, the larvae move up into the estuary to nursery areas of lower salinity (3 to 15 ppt). In mid-to-late summer they move south to mesohaline nursery grounds, and as temperatures decline in fall, the juveniles move south from the nursery areas to the continental shelf and south. They mature at an age of one or two years. Abundance of weakfish in the Delaware Estuary appear to have increased from the 1970s to 1990s and then declined.

Atlantic menhaden is a pelagic species that overwinters on the shelf, and large numbers overwinter off Cape Hatteras, North Carolina. The population moves north along the coast in the spring and south in the fall. The populations spawns all year, and peak spawning occurs off the Delaware Bay in spring and fall. The larvae move by

wind-driven currents into estuarine nursery grounds, where they transform to juveniles and move upstream to oligohaline waters and then move out the estuary with falling temperatures. In the fall, they congregate into dense schools and move out of the estuary and south along the coast. Atlantic menhaden mature at about age two. No trend in abundance in the Delaware Estuary is apparent.

While the identity of species potentially affected by entrainment, impingement, and heat shock may be inferred from ecological information about the Delaware Estuary and the adjacent Salem Generating Station, the species affected cannot be verified, and the numbers cannot be quantified because no intake aquatic monitoring programs are conducted at the HCGS. Impinged organisms may die, and the fish-return system does not function continuously to minimize mortality, but the intake velocity should allow most to escape the plant. All organisms entrained at HCGS, which operates a cooling tower, are probably killed from exposure to heat, mechanical, pressure-related stresses, and possibly biocidal chemicals before being discharged to the estuary.

Under the proposed EPU, water withdrawal rates would not change from present conditions. Entrainment and impingement impacts may change over time due to changes in the aquatic populations even though HCGS's water withdrawal rate would not change from present conditions. Impacts due to impingement and entrainment losses are minimized because the closed-cycle cooling system at the plant minimizes the amount of cooling water withdrawn from and heated effluent returned to the estuary. The water quality of the effluent (e.g., temperature, toxicity, TDS concentrations) would continue to meet present NJPDES permit conditions for protection of aquatic life. The staff concludes that the proposed EPU would have no significant impact to aquatic biota.

Essential Fish Habitat Consultation

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) identifies the importance of habitat protection to healthy fisheries. Essential Fish Habitat (EFH) is defined as those waters and substrata necessary for spawning, breeding, feeding, or growth to maturity (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*). Designating EFH is an essential component in the development of Fishery Management Plans to minimize habitat loss or degradation of fishery stocks and to take actions to mitigate such damage. The

consultation requirements of section 305(b) of the MSA provide that Federal agencies consult with the Secretary of Commerce on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH. An EFH assessment for the proposed EPU was sent to the National Marine Fisheries Service (NMFS) under separate cover to initiate an EFH consultation. By letter dated July 13, 2007 (ADAMS Accession No. ML072000450), NMFS found the EFH assessment satisfactory.

Impacts on Terrestrial Biota

The potential impacts to terrestrial biota from the proposed action would be those from transmission line ROW maintenance. Under EPU conditions, PSEG does not plan to change transmission line maintenance or add new transmission lines. In addition, PSEG does not plan to conduct major refurbishment of significant land-disturbing activities in order to implement the proposed EPU. Because no changes are planned that have the potential to impact terrestrial biota, the NRC staff concludes that the proposed EPU would have no impacts to terrestrial biota associated with transmission line ROW maintenance.

Threatened and Endangered Species and Critical Habitat

In a letter dated December 8, 2006, pursuant to section 7 of the Endangered Species Act of 1969, as amended, the NRC requested from the NMFS a list of species and information on protected, proposed, and candidate species and critical habitat that are under their jurisdiction and may be in the vicinity of HCGS and its associated transmission lines. In response, NMFS issued a letter dated January 26, 2007, that provided information on the endangered shortnose sturgeon; Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), a candidate species for listing; and five species of endangered or threatened sea turtles: loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), and hawksbill (*Eretmochelys imbricata*) turtles. The NRC staff investigated the effects of HCGS operation on these species and found that the primary concern for these endangered and threatened species is the risk of impingement or entrainment due to cooling water intake by the plant. The proposed EPU would not change the intake flow, and, therefore, would not increase in the risk of impingement and entrainment. To dissipate the additional heat created by the EPU, the temperature of the plant's cooling water

discharge would be slightly elevated, but still within the NJPDES 24-hour average temperature limit of 97.1 °F. In addition, HCGS has had no takes of any of the endangered or threatened species listed above. Therefore, the NRC staff anticipates no effects related to the intake or discharge on threatened or endangered species under NMFS(s) jurisdiction, and on May 3, 2007, sent a letter to NMFS concluding the informal section 7 consultation.

Although an informal consultation with the U.S. Fish and Wildlife Service regarding bald eagles was initiated for the HCGS, the U.S. Fish and Wildlife Service delisted bald eagles pursuant to the Endangered Species Act on July 9, 2007, and concluded the informal consultation.

Socioeconomic Impacts

The potential socioeconomic impacts due to the proposed EPU include changes in the payments in lieu of taxes for Lower Alloways Creek Township and Salem County and changes in the size of the workforce at HCGS. Nearly 70 percent of HCGS employees currently reside in Salem, Cumberland, and Gloucester Counties in New Jersey.

The proposed EPU would not increase the size of the HCGS workforce, since proposed plant modifications and other planned activities would be handled by the current workforce or would be phased in during planned outages. Also, the proposed EPU would not increase the size of the HCGS workforce during future refueling outages. Therefore, the proposed EPU would not have any

measurable effect on annual earnings and income in Salem, Cumberland, and Gloucester Counties nor would there be any increased demand for community services.

According to the 2000 Census, Salem, Cumberland, and Gloucester County populations were about 20.4, 41.6, and 14.3 percent minority, respectively (USCB 2000). The percentages of minority populations residing in Salem and Gloucester Counties were well below the State minority population of 34.0 percent. In addition, the poverty rates for individuals living in Salem and Cumberland Counties were 9.5 and 15.0 percent, respectively, which were higher than the State's average of 8.5 percent (the Gloucester County poverty rate was 6.2 percent) (USCB 2000a). Even though these percentages are relatively high, the proposed EPU would not have any disproportionately high and adverse impacts to minority and low-income populations, because no significant environmental impacts were identified during the analysis.

The proposed EPU could affect the value of HCGS and the amount of monies paid to local jurisdictions, in-lieu-of-property tax payments, because the total amount of tax money to be distributed would increase as power generation increases and because the proposed EPU would increase HCGS's value, thus resulting in potentially larger payments to Lower Alloways Creek Township and Salem County. Also, because the proposed EPU would increase the economic viability of

HCGS, the probability of early plant retirement would be reduced. Early plant retirement would have a negative impact on the local economy by reducing or eliminating payments to Lower Alloways Creek Township and Salem County and limiting employment opportunities in the region.

Since the proposed EPU would not affect annual earnings and income in Salem County, nor demand for community services and due to the lack of significant environmental impacts on minority or low-income populations, there would be no significant socioeconomic or environmental justice impacts associated with the proposed EPU. Conversely, the proposed EPU could have a positive effect on the regional economy because of the potential increase in the payments in-lieu-of-taxes received by the Lower Alloways Creek Township and Salem County, due to the potential increase in the book value of HCGS and long-term viability of HCGS.

Summary

The proposed EPU would not result in a significant change in non-radiological impacts in the areas of land use, water use, waste discharges, cooling tower operation, terrestrial and aquatic biota, transmission facility operation, or socioeconomic factors. No other non-radiological impacts were identified or would be expected. Table 2 summarizes the non-radiological environmental impacts of the proposed EPU at HCGS.

TABLE 2.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No significant land use modifications; installed temporary office space to support EPU.
Cooling Tower	No significant aesthetic impact; no significant fogging or icing.
Transmission Facilities	No physical modifications to transmission lines or ROWs; lines meet shock safety requirements; small increase in electrical current would cause small increase in electromagnetic field around transmission lines.
Water Use	No configuration change to intake structure; no increase rate of withdrawal; slightly increase in water consumption due to increased evaporation; no water use conflicts.
Discharge	Increase in water temperature and containment concentration discharged to Delaware River; would meet discharge limits in current NJPDES permit following EPU implementation.
Aquatic Biota	Entrainment and impingement losses may change over time due to changes in the aquatic population but are minimized because of the closed-cycle cooling system utilized at the plant. The water quality of the effluent would continue to meet NJPDES permit conditions for protection of aquatic life. EFH consultation ongoing.
Terrestrial Biota	No land disturbance or changes to transmission line ROW maintenance are expected; therefore, there would be no significant effects on terrestrial species or their habitat.
Threatened and Endangered Species.	No significant impacts are expected on threatened or endangered species or their habitat. Informal consultation with U.S. Fish and Wildlife Service ongoing.

TABLE 2.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS—Continued

Socioeconomic	No change in the size of HCGS labor force required for plant operation and planned outages; proposed EPU could increase payments in-lieu-of-taxes to Lower Alloways Creek Township and Salem County as well as the book value of HCGS; there would be no disproportionately high and adverse impact on minority and low-income populations.
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Radiochemical Impacts

The NRC staff evaluated radiological environmental impacts on waste streams, dose, accident analysis, and fuel cycle and transportation factors. Following is a general discussion of these issues and an evaluation of their environmental impacts.

Radioactive Waste Stream Impacts

HCGS uses waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that the discharges are in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, and Appendix I to 10 CFR Part 50.

The licensee has indicated that operation at EPU conditions would not result in any changes in the operation or design of equipment in the radioactive solid waste, liquid waste, or gaseous waste management systems (GWMS). The safety and reliability of these systems would be unaffected by the power uprate. Neither the environmental monitoring of any of these waste streams nor the radiological monitoring requirements of the HCGS Technical Specifications and/or Offsite Dose Calculation Manual (ODCM) would be affected by the EPU. Furthermore, the EPU would not introduce any new or different radiological release pathways, nor would it increase the probability of either an operator error or an equipment malfunction, that would result in an uncontrolled radioactive release (PSEG 2005). The EPU would produce a larger amount of fission and activation products; however, the waste treatment systems are designed to handle the additional source term. The specific effects on each of the radioactive waste management system are evaluated below.

Gaseous Radioactive Waste and Offsite Doses

During normal operation, HCGS's GWMS processes and controls the release of gaseous radioactive effluents to the environment. The GWMS includes the off-gas system and various building ventilation systems. The radioactive release rate of the gaseous effluent is well monitored and administratively controlled by the

HCGS ODCM (PSEG 2005). The single year highest annual releases of gaseous radioactive material, for the time period 2000–2004, were 63.0 Curies (Ci) for noble gases in 2003, 0.060 Ci for particulates in 2000, and 0.014 Ci for iodines in 2003 (PSEG 2005).

The licensee has estimated that the amount of radioactive material released in gaseous effluents would increase in proportion to the increase in power level (15 percent) (PSEG 2005). Based on experience from EPU at other plants, the NRC staff concludes that this is an acceptable estimate. The dose to a member of the public, including the additional gaseous radioactive material that would be released from the proposed EPU, is calculated to still be well within the radiation standards of 10 CFR Part 20 and the dose design objectives of Appendix I to 10 CFR Part 50. Therefore, the NRC staff concludes that the impact from the EPU would not be significant.

Liquid Radioactive Waste and Offsite Doses

During normal operation, HCGS's Liquid Waste Management System (LWMS) processes and controls the release of liquid radioactive effluents to the environment, such that the doses to individuals offsite are maintained within the limits of 10 CFR Part 20 and the design objectives of Appendix I to 10 CFR Part 50. The LWMS is designed to process the waste and then recycle it within the plant as condensate, reprocesses it through the radioactive waste system for further purification, or discharges it to the environment as liquid radioactive waste effluent in accordance with facility procedures which comply with New Jersey and Federal regulations. The radioactive release rate of the liquid effluent is well monitored and administratively controlled by the HCGS ODCM (PSEG 2005). The single year highest annual releases of liquid radioactive material, for the time period 2000–2004, were 54,742,400 gallons (2.072E+8 liters) and 0.068 Ci of fission and activation products in 2003 (PSEG 2005).

Even though the EPU would produce a larger amount of radioactive fission and activation products and a larger volume of liquid to be processed, the licensee expects the LWMS to remove all but a small amount of the increased

radioactive material. The licensee has estimated that the volume of radioactive liquid effluents released to the environment and the amount of radioactive material in the liquid effluents would increase by 2.2 percent, due to the EPU. Based on experience from EPU at other plants, the NRC staff concludes that this is an acceptable estimate. The dose to a member of the public, including the additional liquid radioactive material that would be released from the proposed EPU, is calculated to still be well within the radiation standards of 10 CFR Part 20 and the dose design objectives of Appendix I to 10 CFR Part 50. Therefore, the NRC staff concludes that the impact from the EPU would not be significant.

Solid Radioactive Waste and Offsite Doses

During normal operation, HCGS's Solid Waste Management System (SWMS) collects, processes, packages, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite and permanent disposal. The SWMS is designed to package the wet and dry types of radioactive solid waste for offsite shipment and burial, in accordance with the requirements of applicable NRC and Department of Transportation regulations, including 10 CFR Part 61, 10 CFR Part 71, and 49 CFR Parts 170 through 178. This results in radiation exposures to a member of the public to be well within the limits of 10 CFR Part 20 and the design objectives of Appendix I to 10 CFR Part 50. The volume of solid radioactive waste generated varied from about 11.7 to almost 90.4 cubic meters per year for the time period 2000–2004; the largest volume generated was 90.4 cubic meters in 2002. The amount of solid radioactive material in the waste generated varied from 1 to almost 600 Ci per year during that same period. The largest amount of radioactive material generated in the solid waste was 591 Ci in 2001 (PSEG 2005).

The EPU would produce a larger amount of radioactive fission and activation products, and treatment of this increase would require more frequent replacement or regeneration of SWMS filters and demineralizer resins. The licensee has estimated that the volume and radioactivity of solid

radioactive waste would increase by approximately 14.7 percent from the average of the time period 2000–2004, due to the EPU (PSEG 2005). Based on experience from EPU at other plants, the NRC staff concludes that this is an acceptable estimate. Therefore, the staff concludes that the impact from the increased volume of solid radwaste generated due to the EPU would not be significant.

The licensee estimates that the EPU would require replacement of 10 percent more fuel assemblies at each refueling. This increase in the amount of spent fuel being generated would require an increase in the number of dry fuel storage casks used to store spent fuel. However, the current dry fuel storage facility at HCGS can accommodate the increase.

Occupational Radiation Doses

The proposed EPU would result in the production of more radioactive material and higher radiation dose rates in some areas at HCGS. PSEG's radiation protection staff will monitor these increased dose rates and make adjustments in shielding, access requirements, decontamination methods, and procedures as necessary to minimize the dose to workers. In addition, occupational dose to individual workers must be maintained within the limits of 10 CFR Part 20 and as low as reasonably achievable.

The licensee has estimated that after the implementation of EPU, the estimated annual average collective occupational dose would be in the range of 146 person-rem, representing a 16-percent increase of in-plant occupation exposure (PSEG 2005). According to the 2004 report on "Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities," the highest HCGS occupational exposure is 240 person-rem in 2004, for the time period 2002–2004 (NUREG 2004). The dose to a member of HCGS personnel from the radiation exposures described above, increased by 20 percent, would still be well within the radiation standards of 10 CFR Part 20. Based on experience from EPU at other plants, the NRC staff concludes that these estimates are acceptable. Based on these estimates, the NRC staff concludes that the increase in occupational exposure would not be significant.

Offsite Radiation Doses

Offsite radiation dose consists of three components: gaseous, liquid, and direct gamma radiation. As previously discussed under the Gaseous Radiological Wastes and Liquid Radiological Wastes sections, the

estimated doses to a member of the public from gaseous and liquid effluents after the EPU is implemented would be within the dose design objectives of Appendix I to 10 CFR Part 50.

The final component of offsite dose is from direct gamma radiation dose from radioactive waste stored temporarily onsite, including spent fuel in dry cask storage, and radionuclides (mainly nitrogen-16) in the steam from the reactor passing through the turbine system. The high energy radiation from nitrogen-16 is scattered or reflected by the air above the site and represents an additional public radiation dose pathway known as "skyshine." The licensee estimated that the offsite radiation dose from skyshine would increase approximately 16 percent for a 20-percent increase in steam flow, which bounds the proposed EPU; more nitrogen-16 is produced at the higher EPU power and less of the nitrogen-16 decays before it reaches the turbine system because of the higher rate of steam flow due to the EPU. The licensee's radiological environmental monitoring program measures radiation dose at the site boundary and in the area around the plant with an array of thermoluminescent dosimeters. The licensee estimated that the offsite radiation dose would increase to approximately 9.3 millirem (mrem), in proportion to the EPU power increase (15 percent) (PSEG 2005). Based on experience from EPU at other plants, the NRC staff concludes that this is an acceptable estimate. EPA regulation 40 CFR Part 190, and NRC regulation 10 CFR Part 20, limit the dose to any member of the public to 25 mrem per year to the whole body from the entire nuclear fuel cycle. The offsite dose from all sources, including radioactive gaseous and liquid effluents and direct radiation, would still be well within this limit after the EPU is implemented. Therefore, the NRC staff concludes that the increase in offsite radiation dose would not be significant.

Postulated Accident Doses

As a result of implementation of the proposed EPU, there would be an increase in the inventory of radionuclides in the reactor core; the core inventory of radionuclides would increase as power level increases. The concentration of radionuclides in the reactor coolant may also increase; however, this concentration is limited by the HCGS technical specifications. Therefore, the reactor coolant concentration of radionuclides would not be expected to increase significantly. Some of the radioactive waste streams and storage systems may

also contain slightly higher quantities of radioactive material. The calculated doses from design basis postulated accidents for HCGS are currently well below the criteria of 10 CFR 50.67. The licensee has estimated that the radiological consequences of postulated accidents would increase approximately in proportion to the increase in power level from the EPU (15 percent). Based on experience from EPU at other plants, the NRC staff concludes that this is an acceptable estimate. The calculated doses from design basis postulated accidents would still be well within the criteria of 10 CFR 50.67 after the increase due to the implementation of the EPU. These calculated doses are based on conservative assumptions for the purposes of safety analyses. Estimates of the radiological consequences of postulated accidents for the purposes of estimating environmental impact are made by the NRC using best estimate assumptions, which result in substantially lower dose estimates. Therefore, the NRC staff concludes that the increase in radiological consequences for postulated accidents due to the EPU would not be significant.

Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuel and waste are described in 10 CFR 51.51 Table S–3 and 10 CFR 51.52 Table S–4, respectively. An NRC generic EA (53 FR 6040, dated February 29, 1988) evaluated the applicability of Tables S–3 and S–4 to a higher burn-up fuel cycle and concluded that there would be no significant change in environmental impact from the parameters evaluated in Tables S–3 and S–4 for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burn-ups less than 60,000 MW days per metric ton of uranium-235 (MWd/MTU).

The proposed EPU would increase the power level to 3,840 MWt, which is approximately 1 percent above the reference power level of 3,800 MWt for Table S–4. The increased power level of 3,840 MWt corresponds to approximately 1,265 MWe, which is 26.5 percent above the reference power level of 1,000 MWe for Table S–3. Part of the increase is due to a more efficient turbine design, which does not affect the impacts of the fuel cycle and transportation of waste. More fuel will be used in the reactor (more fuel assemblies will be replaced at each refueling outage), and that will potentially affect the impacts of the fuel cycle and transportation of waste. However, the fuel enrichment and burn-up after the EPU will continue to be no

greater than 5 weight percent uranium-235, and the fuel burn-up will be maintained less than 60,000 MWd/MTU. The NRC staff concludes that the HCGS EPU is bounded by the analysis of the environmental effects of the transportation of fuel and waste as described in the "Extended Burnup Fuel Use in Commercial [Light Water Reactors] LWRs; Environmental Assessment and Finding of No

Significant Impact," dated February 29, 1988 (53 FR 6040).

Summary

Based on the NRC staff review of licensee submission and the FES for operation, it is concluded that the proposed EPU would not significantly increase the consequences of accidents, would not result in a significant increase in occupational or public

radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there would be no significant radiological environmental impacts associated with the proposed action. Table 3 summarizes the radiological environmental impacts of the proposed EPU at HCGS.

TABLE 3.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Gaseous Radiological Effluents	Increased gaseous effluents would remain within NRC limits and dose design objectives.
Liquid Radiological Effluents	Increased liquid effluents (2.2 percent) would remain within NRC limits and dose design objectives.
Solid Radioactive Waste	Increased amount of solid radioactive waste generated (14.7 percent by volume) would remain bounded by evaluation in the FES.
Occupational Radiation Doses	Occupational dose would increase by roughly 16 percent. Doses would be maintained within NRC limits and as low as is reasonably achievable.
Offsite Radiation Doses	Radiation doses to members of the public would increase to approximately 9.3 mrem and continue to be well within NRC and EPA regulations.
Postulated Accident Doses	Calculated doses for postulated design-basis accidents would remain within NRC limits.
Fuel Cycle and Transportation Impacts.	Fuel enrichment and burnup criteria would be met. Potential increases in the impact due to uranium fuel cycle and the transportation of fuel and waste would not be significant.

Alternatives to Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (i.e., the "no-action" alternative). Denial of the application would result in no change in the current environmental impacts. However, if the proposed EPU were not approved, other agencies and electric power organizations may be required to pursue alternative means of providing electric generation capacity to offset the increased power demand forecasted for the PJM regional transmission territory.

A reasonable alternative to the proposed EPU would be to purchase power from other generators in the PJM network. In 2003, generating capacity in PJM consisted primarily of fossil fuel-fired generators: coal generated 36.2 percent of PJM capacity; oil 14.3 percent; natural gas 6.8 percent; dual fired (i.e., gas and oil) 18.9 percent; nuclear 17.1 percent; hydroelectric 5.5 percent; and renewables 1.3 percent (ML062630235). This indicates that the majority of purchased power in the PJM territory would likely be generated by a fossil-fuel-fired facility. Construction (if new generation is needed) and operation of a fossil fuel plant would create impacts in air quality, land use, and waste management significantly greater than those identified for the proposed EPU at HCGS. HCGS does not emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that are commonly associated with fossil fuel plants. Conservation programs such as demand-sidemanagement could feasibly replace the proposed EPU's additional power

output. However, forecasted future energy demand in the PJM territory may exceed conservation savings and still require additional generating capacity. Furthermore, the proposed EPU does not involve environmental impacts that are significantly different from those originally identified in the 1984 HCGS FES for operation.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the original FES for construction (AEC 1974).

Agencies and Persons Consulted

In accordance with its stated policy, on July 24, 2007, the NRC staff consulted with the New Jersey State official, Mr. Jerry Humphreys, of the New Jersey Department of Environmental Protection, regarding the environmental impact of the proposed action. The State of New Jersey provided comments in a letter from Kenneth C. Koschek, Supervising Environmental Specialist, Office of Permit coordination and Environmental Review, dated November 21, 2007 (ML073600859). The comments are addressed in this final EA.

Finding of No Significant Impact

On the basis of the EA, the NRC concludes that the proposed action would not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an Environmental Impact Statement for the proposed action.

For further details with respect to the proposed action, see the licensee's

application dated September 18, 2006, as supplemented on October 10, and October 20, 2006; February 14, February 16, February 28, March 13 (2 letters), March 22, March 30 (2 letters), April 13, April 18, April 30, May 10, May 18 (3 letters), May 24, June 22, August 3, August 17 (2 letters), August 27, August 31, September 11, October 10, October 23, November 15, November 30, and December 31, 2007; January 14, January 15, January 16, January 18, January 25, and January 30, 2008. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1-800-397-4209, or 301-415-4737, or send an e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 3rd day of March 2008.

For the Nuclear Regulatory Commission.

John G. Lamb,

Senior Project Manager, Plant Licensing Branch I-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8-4858 Filed 3-10-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**Sunshine Federal Register Notice**

DATES: Weeks of March 10, 17, 24, 31, April 7, 14, 2008.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:**Week of March 10, 2008**

There are no meetings scheduled for the Week of March 10, 2008.

Week of March 17, 2008—Tentative

Monday, March 17, 2008

12:55 p.m.

Affirmation Session (Public Meeting) (Tentative):

a. Final Rule—10 CFR Part 73 "Safeguards Information Protection Requirements" (RIN 3150 AH57) (Tentative).

b. Pa'ina Hawaii, LLC (Materials License Application) (Tentative).

c. Pa'ina Hawaii, LLC (Materials License Application) Atomic Safety and Licensing Board's Decision on Environmental Contentions (Dec. 21, 2007) (Tentative).

d. Pacific Gas and Electric Co. (Diablo Canyon ISFSI), Docket No. 72-26-ISFSI, San Luis Obispo Mothers for Peace's Response to NRC Staff's Vaughn Index, Request for Leave To Conduct Discovery Against the NRC Staff, Request for Access to Unredacted Reference Documents, and Request for Procedures To Protect Submission of Sensitive Information (Tentative).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

1 p.m.
Briefing on State of NRC Technical Programs (Public Meeting) (Contact: Tamara Bloomer, 301 415-1725) [Note: title of meeting reworded].

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Tuesday, March 18, 2008

9:30 a.m.

Briefing by Independent External Panel To Identify Vulnerabilities in the U.S. NRC's Materials Licensing Program (Public Meeting) (Contact: Aaron T. McCraw, 301-415-1277).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of March 24, 2008—Tentative

Thursday, March 27, 2008

9:30 a.m.

Discussion of Management Issues (Closed—Ex. 2).

Week of March 31, 2008—Tentative

There are no meetings scheduled for the Week of March 31, 2008.

Week of April 7, 2008—Tentative

Monday, April 7, 2008

9:30 a.m.

Briefing on Digital Instrumentation and Control (Public Meeting) (Contact: Steven Arndt, 301 415-6502).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Tuesday, April 8, 2008

10 a.m.

Joint Meeting of the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) (Public Meeting). To Be Held at FERC Headquarters, 888 First Street NE., Washington, DC. (Contact: Michelle Schroll, 301 415-1662).

This meeting will be webcast live at the Web address—<http://www.ferc.gov>.

Week of April 14, 2008—Tentative

There are no meetings scheduled for the Week of April 14, 2008.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Michelle Schroll, (301) 415-1662.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at REB3@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting

schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: March 6, 2008.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 08-1007 Filed 3-7-08; 10:26 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**Request for a License To Import Radioactive Waste**

Pursuant to 10 CFR 110.70 (c) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission (NRC) has received the following request for an import license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link: <http://www.nrc.gov/reading-rm.html> at the NRC Homepage.

Requests for hearing or intervention must be filed in accordance with the procedures set forth in 10 CFR Part 110, Subpart H and be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). Information about filing electronically is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. To ensure timely electronic filing, at least five days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by e-mail at HEARING.DOCKET@NRC.GOV, or by calling (301) 415-1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the **Federal Register** to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this import license application follows.

NRC IMPORT LICENSE APPLICATION

[Description of Material]

Name of applicant Date of application Date received Application No. Docket No.	Material type	Total quantity	End use	Country of origin
AREVA NP Inc. September 25, 2007 (ML080280229) December 18, 2007 IW024 11005712.	Class A radioactive waste in the form of protective clothing, rags, metal shavings and rejected parts contaminated with Cobalt-60, Cobalt-58, Iron-59 and Manganese-54.	Total volume of one 55-gallon drum with approximately 60 kilograms of dry activity material contaminated with a maximum activity of 0.000070 Tbpq (approximately 2 mCi).	Contaminated materials generated from refurbishment of the DC Cook Nuclear Plant's reactor coolant pump internals in France are to be returned to the U.S. The returned waste will be sent to EnergySolutions, Oak Ridge, Tennessee for incineration. The waste meets EnergySolutions waste acceptance criteria and will be received in accordance with Tennessee license R-73008-C14.	France (Waste from processing in France of material originating in the U.S.)

For the Nuclear Regulatory Commission.
Dated this 5th day of March 2008 at Rockville, Maryland.

Scott W. Moore,

Deputy Director, Office of International Programs.

[FR Doc. E8-4859 Filed 3-10-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-370]

Duke Power Company LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duke Power Company LLC (the licensee) to withdraw its November 7, 2007, application for proposed amendment to Facility Operating License No. NPF 17 for the McGuire Nuclear Station, Unit 2 (McGuire 2), located in Mecklenburg County, North Carolina.

The proposed amendment would have revised the Technical Specifications pertaining to the Unit 2 auxiliary feedwater (AFW) system "A" train to be declared inoperable for an additional 72 hours beyond the allowed 72 hours for piping modifications and testing of the Nuclear Service Water System (NSW). The evolution is scheduled to be performed within the allowed time (72 hours) for one train of AFW to be inoperable. However, implementation and schedule uncertainty could lead to exceeding the

allowed 72 hours for the AFW Technical Specification. Therefore, in an effort to avoid an unnecessary Unit 2 shutdown or submittal of a request for Enforcement Discretion, McGuire 2 requested a one-time limited duration TS change. The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 5, 2007 (72 FR 68595). However, by letter dated December 18, 2007, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 7, 2007, and the licensee's letter dated December 18, 2007, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 3rd day of March 2008.

For the Nuclear Regulatory Commission.

John Stang,

Senior Project Manager, Plant Licensing Branch II-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8-4852 Filed 3-10-08; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28180; File No. 812-13437]

Pruco Life Insurance Company, et al.; Notice of Application

March 4, 2008.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an amended order under Section 6(c) of the Investment Company Act of 1940, as amended (the "Act" or "1940 Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: Pruco Life Insurance Company ("Pruco Life"), Pruco Life Insurance Company of New Jersey ("Pruco Life of New Jersey," and collectively with Pruco Life, the "Insurance Companies"), Pruco Life Flexible Premium Variable Annuity Account ("Pruco Life Account"); Pruco Life of New Jersey Flexible Premium Variable Annuity Account ("Pruco Life of New Jersey Account," and collectively with Pruco Life Account, the "Accounts"), and Prudential Annuities Distributors, Inc. ("PAD", and

collectively with the Insurance Companies, and the Accounts "Applicants").

Summary of Application: Applicants seek an order amending an existing order under Section 6(c) of the Act, exempting them from Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to permit the recapture of credit amounts that differ from the credit amounts contemplated by the existing order, under certain specified circumstances.

Filing Date: The application was filed on October 9, 2007, and amended on January 7, 2008.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 31, 2008, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549-1090. Applicants, c/o C. Christopher Sprague, Esq., The Prudential Insurance Company of America, 751 Broad Street, Newark, NJ 07102.

FOR FURTHER INFORMATION CONTACT: Sally Samuel, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551-6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551-8090).

Applicants' Representations

1. In Investment Company Act Release Nos. 27389 (June 6, 2006) (notice) and 27419 (July 7, 2006) (order), the Commission granted an order (the "2006 Order") that permits, under specified circumstances, the recapture of certain bonus payments under the X Series of the Prudential Premier variable annuity contract ("X Series Contract") of each of Pruco Life and Pruco Life of New Jersey. The current bonus credit

(the "Credit") under the X Series Contract varies, depending on the age of the older of the owner and any joint owner on the date that the purchase payment is made, but not on the amount of the purchase payment. Specifically, if the elder owner is 80 or younger when a purchase payment is made, the Credit equals 5%, regardless of the purchase payment amount. If the elder owner is between ages 81 and 85 when the purchase payment is made, then the Credit is 3%, regardless of the amount of the purchase payment.

2. Applicants recapture the Credit if (i) the X Series Contract is surrendered during the free look period, or (ii) the Credit was applied within 12 months prior to death or (iii) the Credit was applied within 12 months prior to a request for a Medically-Related Surrender (note that the medically-related surrender provision is not available under the Pruco Life of New Jersey contract). No contingent deferred sales charges ("CDSC") is applied in connection with any transaction in which the Credit is recaptured.

3. With respect to X Series Contracts as to which the oldest owner is 80 or younger on the date the purchase payment is made, Applicants wish to increase the credit amount from 5% to 6%. Applicants seek an amended order pursuant to Section 6(c) of the Act exempting them from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent necessary to permit an Insurance Company to recapture this 6% credit (the "New Credit") under exactly the same scenarios as is allowed under the 2006 Order.

4. Applicants request that the amended order sought herein apply to any future separate account established by the Insurance Company ("Future Account") to support Future Contracts (as defined below) and to any variable annuity contract offered by the Insurance Companies in the future that is substantially similar in all material respects to the X Series Contracts ("Future Contracts").

5. Applicants also request that the amended order extend to any FINRA member broker-dealer controlling, controlled by, or under common control with, the Insurance Companies, whether existing or created in the future, that serves as a distributor or principal underwriter of the X Series Contracts offered through the Accounts or any Future Account ("Broker-Dealers"). Applicants note that the X Series Contracts will be sold through such Broker-Dealers and also through broker-dealers that are FINRA-registered and not affiliated with the Insurance

Companies or the Broker-Dealers (the "Unaffiliated Broker-Dealers"). Each Unaffiliated Broker-Dealer will have entered into a dealer agreement with PAD or an affiliate of PAD prior to offering the X Series Contracts.

6. The X Series Contracts are flexible premium deferred variable annuity contracts that are registered on Form N-4. The minimum initial purchase payment is \$10,000, and any additional purchase payment must be at least \$100 (except for contract owners who participate in certain periodic purchase payment programs). The maximum issue age for the X Series Contract is 75, meaning that, for (i) contracts with one owner, the owner must be 75 or younger, (ii) contracts that are jointly-owned, the oldest owner must be 75 or younger, and (iii) for entity-owned contracts, the annuitant must be 75 or younger.

7. There are various insurance features under the X Series Contract and charges associated with those features. There is a 1.55% annual insurance charge that is deducted daily from the unit value of each subaccount, consisting of 1.40% for mortality and expense risks and 0.15% for administrative expenses. For X Series Contracts valued less than \$100,000, there is a maintenance fee equal to the lesser of \$35 (\$30 in New York) or 2% of unadjusted account value, which is assessed annually on the X Series Contract's anniversary date or upon surrender. The maintenance fee is deducted pro rata from both the variable investment options and the fixed option under the X Series Contract. The Insurance Companies impose no fee with respect to the first 20 transfers in an annuity year, but after the 20th such transfer, currently impose a fee of \$10 per transfer. There is a CDSC under the X Series Contract, the amount of which is based on the "age" of each purchase payment being withdrawn. During the first year after a purchase payment is made, the CDSC is equal to 9%. In subsequent years, the CDSC is as follows: 8.5% in year 2, 8% in year 3, 7% in year 4, 6% in year 5, 5% in year 6, 4% in year 7, 3% in year 8, and 2% in year 9. After nine years have elapsed from the date on which the purchase payment was made, no CDSC is imposed with respect to that purchase payment. In addition, no CDSC is imposed on the portion of a withdrawal that can be taken as part of the free withdrawal feature of the X Series Contract. The free withdrawal amount available in each annuity year is equal to 10% of the sum of all purchase payments made during the year and prior to the beginning of that year,

except that (i) only purchase payments that would be subject to a CDSC are included in that calculation and (ii) a free withdrawal amount that is not used in a given year cannot be carried over to future years. For purposes of calculating the CDSC, partial withdrawals are deemed to be taken first from any free withdrawal amount and thereafter from purchase payments (on a first-in, first-out basis). Earnings are not subject to any CDSC, and thus are not considered part of the free withdrawal.

8. An X Series Contract owner may select one or more of several optional benefits. The Guaranteed Minimum Income Benefit is subject to a charge of 0.50% per year of the protected income value during each year, and the charge is deducted annually in arrears each annuity year. The Lifetime Five Income Benefit (which allows the owner to withdraw a specified protected value through periodic withdrawals or a series of payments for life) is subject to a charge of 0.60% annually of the average daily net assets in the subaccounts. The X Series Contract also offers a variant of the Lifetime Five benefit (called Spousal Lifetime Five) which, for a charge of 0.75% annually, guarantees income until the second-to-die of two individuals married to each other. There is yet another variant called Highest Daily Lifetime Five, which bears a charge of 0.60% annually. The Highest Daily Value death benefit (which provides a death benefit equal to the higher of the basic death benefit or the "highest daily value") is subject to a charge of 0.50% annually of the average daily net assets of the subaccounts. Finally, the combination 5% roll-up/HAV death benefit (which refers to a death benefit equal to the greater of (i) the "highest anniversary value" or (ii) purchase payments plus credits, adjusted for withdrawals, appreciated at 5% annually) is subject to a charge of 0.50% annually of the average daily net assets of the subaccounts. (For New York contracts, the only optional death benefit will be the Highest Anniversary Value Death Benefit.)

9. In addition to the optional insurance features, the X Series Contract offers several optional administrative features at no additional cost (e.g., auto rebalancing, systematic withdrawals).

10. The X Series Contract offers both variable investment options and a one-year fixed rate option. The X Series Contract also may offer an enhanced, dollar cost averaging fixed interest rate option. At present, only portfolios of Advanced Series Trusts are available as variable investment options. Under the X Series Contract, applicants reserve the right to add new underlying funds and

series, and to substitute new portfolios for existing portfolios (subject to Commission approval).

11. An owner choosing to annuitize under the X Series Contract will have only fixed annuity options available. Those fixed annuity options include annuities based on a single measuring life or joint lives, based on a single measuring life or joint lives with a period certain (e.g., 5 years, 10 years, or 15 years), or based on a period certain only. If the owner fails to choose an annuity option, the default is to a life annuity with 10 years certain.

12. If the elder owner is 80 or younger when a purchase payment is made, the New Credit will equal 6%, regardless of the purchase payment amount. Applicants will recapture the New Credit if (i) the X Series Contract is surrendered during the free look period, or (ii) the New Credit was applied within 12 months prior to death or (iii) the New Credit was applied within 12 months prior to the surrender of the contract under the medically-related surrender provision of the X Series Contract (e.g., if the owner is diagnosed with a "fatal illness" and chooses to invoke this contract provision on that basis). (The medically-related surrender provision is not available in New York.) Applicants seek an amended order pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent necessary to permit an Insurance Company to recapture the New Credit described herein in the instances described in the preceding sentence. No CDSC will be assessed in connection with any transaction in which the New Credit is recaptured.

13. Finally, the X Series Contract will offer a "longevity credit" that will be paid on the 10th annuity anniversary and each annuity anniversary thereafter. The longevity credit will equal 0.40% of the sum of all purchase payments (less withdrawals) that are more than 9 years old. Applicants are not seeking an exemption to recapture the longevity credit.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such 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.

2. Applicants request that the Commission, pursuant to Section 6(c) of the Act, amend the 2006 Order to the extent necessary to permit the recapture of the New Credit under the circumstances described above. Applicants believe that the requested exemptions are 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.

3. Applicants submit that the recapture of the New Credit will not raise concerns under Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the 1940 Act, and Rule 22c-1 thereunder for the same reasons given in support of the 2006 Order. The New Credit will be recaptured only if the owner (i) exercises his/her free look right, (ii) dies within 12 months after receiving a New Credit or (iii) makes a medically-related surrender within 12 months after receiving a New Credit. The amounts recaptured equal the New Credits provided by each Insurance Company from its own general account assets.

4. When the Insurance Companies recapture the New Credit, they are merely retrieving their own assets, and the owner has not been deprived of a proportionate share of the applicable Account's assets, because his or her interest in the New Credit amount has not vested. With respect to New Credit recaptures upon the exercise of the free look privilege, it would be unfair to allow an owner exercising that privilege to retain a New Credit amount under an X Series Contract that has been returned for a refund after a period of only a few days. If the Insurance Companies could not recapture the New Credit during the free look period, individuals could purchase a contract with no intention of retaining it, and simply return it for a quick profit. Applicants also note that the contract owner is entitled to retain any investment gain attributable to the New Credit, even if the New Credit is ultimately recaptured. Furthermore, the recapture of New Credits if death or a medically-related surrender occurs within 12 months after the receipt of a New Credit is designed to provide the Insurance Companies with a measure of protection against "anti-selection." The risk here is that an owner, with full knowledge of impending death or serious illness, will make very large payments and thereby leave the Insurance Companies less time to recover the cost of the New Credit, to their financial detriment.

5. The recapture of the New Credit could be viewed as involving the redemption of redeemable securities for a price other than one based on the

current net asset value of the Account. The recapture of the New Credit does not involve either of the evils that Rule 22c-1 was intended to address, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices.

6. Applicants also assert that the proposed recapture of the New Credit does not pose a threat of dilution. To effect a recapture of a New Credit, interests in an owner's account will be redeemed at a price determined on the basis of the current net asset value. The amount recaptured will equal the amount of the New Credit that the Insurance Companies paid out of their general account assets. Although the owner will be entitled to retain any investment gain attributable to the New Credit, the amount of that gain will be determined on the basis of current net asset value. Therefore, no dilution will occur upon the recapture of the New Credit.

7. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the New Credit. Applicants submit that the provisions for recapture of the New Credit under the X Series Contract do not, and any such Future Contract provisions will not, violate Sections 2(a)(32) and 27(i)(2)(A) of the Act, and Rule 22c-1 thereunder, and that the relief requested is consistent with the exemptive relief provided under the 2006 Order and other Commission precedent.

8. Applicants submit that their request for an amended order that applies to any Account or any Future Account established by an Insurance Company in connection with the issuance of the X Series Contract and Future Contracts, and underwritten or distributed by PAD or other broker-dealers, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Having

Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

9. Applicants undertake that Future Contracts funded by the Accounts or by Future Accounts that seek to rely on the order issued pursuant to the application will be substantially similar to the X Series Contract in all material respects.

Conclusion

Applicants submit that their request for an amended order meets the standards set out in Section 6(c) of the 1940 Act and that an amended order should, therefore, be granted. For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4685 Filed 3-10-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28179; File No. 812-13446]

Prudential Annuities Life Assurance Corporation, et al; Notice of Application

March 4, 2008.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an amended order under section 6(c) of the Investment Company Act of 1940, as amended (the "Act" or "1940 Act") granting exemptions from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: Prudential Annuities Life Assurance Corporation ("PALAC"), Prudential Annuities Life Assurance Corporation Variable Account B ("Account"); and Prudential Annuities Distributors, Inc. ("PAD," and collectively with PALAC, and the Account "Applicants").

Summary of Application: Applicants seek an order amending an existing order under section 6(c) of the Act, exempting them from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to permit the recapture of credit amounts that differ from the credit amounts contemplated by the existing order, under certain specified circumstances.

Filing Date: The application was filed on October 29, 2007 and amended on January 7, 2008.

Hearing or Notification of Hearing: An order granting the application will be

issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 31, 2008, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549-1090. Applicants, c/o C. Christopher Sprague, Esq., The Prudential Insurance Company of America, 751 Broad Street, Newark, NJ 07102-2992.

FOR FURTHER INFORMATION CONTACT:

Sally Samuel, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551-6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551-8090).

Applicants' Representations:

1. In Investment Company Act Release Nos. 25373 (January 22, 2002) (notice of application) and 25423 (February 20, 2002) (order), the Commission granted an order (the "Order") that permits, under specified circumstances, the recapture of certain bonus payments under the XTRA Credit SIX variable annuity (the "Contract").¹ In particular, the Order permits the recapture of a credit equal to 6% of the purchase payment amount for a purchase payment made during the first annuity year. Since February of 2006, Applicants have been granting a credit of 6.5% during the first annuity year, but recapturing that credit only to the extent permitted absent a Commission

¹ The Order applies to the American Skandia XTRA Credit FOUR annuity (which offers different credit amounts than XTRA Credit SIX) as well as the American Skandia XTRA Credit SIX annuity. The instant application seeks to amend the Order only with respect to the XTRA Credit SIX annuity, and not with respect to the XTRA Credit Four annuity. Also that PALAC offers a "private label" version of the Contract, called Optimum Plus that is sold through Linsco/Private Ledger Corp. Optimum Plus offers the same credits as XTRA Credit SIX. Thus, references to the "Contract" in this application are intended to include Optimum Plus.

order (*i.e.*, during the free look period, after adjusting for charges and any negative investment performance with respect to the credit amount). In this application, Applicants seek to recapture the full amount of the 6.5% credit (the "6.5% Credit") (a) if the Contract is returned during the free look period, (b) if the Credit was granted with respect to a purchase payment submitted within twelve months prior to death (except that PALAC will not recapture the 6.5% Credit to the extent that the death benefit is equal to the account value, but after the recovery of all or a portion of the credit, the death benefit would be equal to less than purchase payments minus proportional withdrawals) and (c) if the Credit was granted with respect to a purchase payment submitted within twelve months prior to the exercise of the medically-related surrender provision of the Contract.

2. Applicants seek an amended order pursuant to section 6(c) of the Act exempting them from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent necessary to permit PALAC to recapture this 6.5% Credit under the scenarios described above. Applicants request that the amended order sought herein apply to any separate account established in the future by PALAC ("Future Account") to support a variable annuity contract offered by PALAC in the future that is substantially similar in all material respects to the Contract (the "Future Contracts") and to any Future Contracts. Applicants also request that the amended order extend to any FINRA member broker-dealer controlling, controlled by, or under common control with PALAC, whether existing or created in the future, that serves as a distributor or principal underwriter of the Contract offered through the Accounts or any Future Account ("Broker-Dealers"). Applicants also request that the amended order extend to any broker-dealers that are FINRA-registered and not affiliated with PALAC or the Broker-Dealers (the "Unaffiliated Broker-Dealers"). Each Unaffiliated Broker-Dealer will have entered into a dealer agreement with PAD or an affiliate of PAD prior to offering the Contract.

3. The Contracts are flexible premium deferred variable annuity contracts that are registered on Form N-4. The minimum initial purchase payment is \$10,000, and any additional purchase payment must be at least \$100 (except for contract owners who participate in certain periodic purchase payment programs). The maximum issue age for the Contract is 75, meaning that (a) the

owner must be 75 or younger, or (b) for a Contract that is entity-owned, the annuitant must be 75 or younger.

4. There are various insurance features under the Contract and charges associated with those features. There is a mortality and expense risk charge equal to 0.50% annually, an administration charge equal to 0.15% annually, and a distribution charge equal to 1.00% annually that is applicable only in annuity years 1-10. There is a maintenance fee equal to the lesser of \$35 or 2% of account value, which is assessed annually on the Contract's anniversary date or upon surrender. PALAC imposes no fee with respect to the first 20 transfers in an annuity year, but after the 20th such transfer, currently imposes a fee of \$10 per transfer (\$15 maximum). There is a contingent deferred sales charge ("CDSC") under the Contract, the amount of which is based on the number of years that have elapsed since the issue date of the annuity. For Contracts issued prior to November 20, 2006, the CDSC begins at 9% in year one, and each year thereafter is equal, respectively, to 9%, 8.5%, 8%, 7%, 6%, 5%, 4%, 3%, 2%, with no CDSC in years 11 and later. For Contracts issued on or after November 20, 2006, the CDSC begins at 9% in year one, and each year thereafter is equal, respectively, to 9%, 8%, 7%, 6%, 5%, 4%, 3%, 2%, 1%, with no CDSC in years 11 and later. No CDSC is imposed on the portion of a withdrawal that can be taken as part of the free withdrawal feature of the Contract. The maximum free withdrawal amount available in each annuity year is equal to 10% of all purchase payments that are subject to a CDSC. Earnings are not subject to any CDSC, and thus are not considered part of the free withdrawal. No CDSC will be imposed in any situations where the 6.5% Credit is recaptured.

5. A Contract owner may select one or more of several optional living benefits. The Guaranteed Minimum Income Benefit, which offers lifetime payments based on a guaranteed protected value, is subject to a charge of 0.50% per year of the average protected income value each year. The Lifetime Five Income Benefit (which allows the owner to withdraw a specified protected value through periodic withdrawals or as a series of payments for life) is subject to a charge of 0.60% annually of the average daily net assets in the sub-accounts. The Contract also offers a variant of the Lifetime Five benefit (called "Spousal Lifetime Five") that, for a charge of 0.75% annually, guarantees income until the second-to-die of two individuals married to each

other. There is yet another variant called Highest Daily Lifetime Five, under which the protected withdrawal value is based on a highest daily account value and which bears a charge of 0.60% annually. The Contract offers a guaranteed minimum accumulation benefit called the Guaranteed Return Option ("GRO" and "GRO Plus") for which PALAC imposes a charge equal to 0.25% annually. Finally, the Contract offers a guaranteed minimum withdrawal benefit for a charge of 0.35% annually.

6. The Contract offers several optional death benefits, including the Enhanced Beneficiary Protection Death Benefit for a charge of 0.25% annually, the Highest Anniversary Value Death Benefit for a charge of 0.25% annually, a Combination 5% roll-up and Highest Anniversary Value Death Benefit for a charge of 0.50% annually, and a Highest Daily Value Death Benefit for a charge of 0.50% annually. Applicants may add other optional living and death benefits to the Contract in the future. In addition to the optional insurance features, the Contract offers several optional administrative features at no additional cost (*e.g.*, auto rebalancing, systematic withdrawals).

7. The Contract offers both variable investment options and market value adjustment fixed interest rate options. At present, the Contract offers portfolios of Advanced Series Trust (formerly, American Skandia Trust), AIM Variable Insurance Funds, Evergreen Variable Annuity Trust, First Defined Portfolio Fund, Gartmore Variable Insurance Trust, ProFunds, the Prudential Series Fund, and Wells Fargo Variable Trust. Under the Contract, Applicants reserve the right to add new underlying funds and series, and to substitute new portfolios for existing portfolios (subject to Commission approval).

8. An owner choosing to annuitize under the Contract will have only fixed annuity options available. Those fixed annuity options include annuities offering payments for life, payments based on joint lives, payments for life with a certain period, and fixed payments for a certain period. The latest annuitization date is the first day of the month coinciding with, or immediately following the later of the annuitant's 85th birthday or your fifth annuity anniversary. For contracts issued on or after November 20, 2006, the maximum annuity date is triggered by the later of the first of the owner or annuitant to reach age 95 and the fifth anniversary of the issue date of the Contract.

9. For Contracts sold prior to February 13, 2006, the credit for purchase payments made during the first annuity

year is 6%, and is not proposed to be changed. For Contracts issued on or after February 13, 2006, the credit applicable to purchase payments made during the first year is 6.5%. Applicants seek an amended exemptive order to allow them to recapture the full amount of this 6.5% Credit under the scenarios identified in the following sentence with respect to Contracts issued on or after the date of the Commission's order under this application. Specifically, Applicants will recapture the 6.5% Credit if (a) the Contract is surrendered during the free look period, or (b) the credit was applied within 12 months prior to death (except that PALAC will not recapture the credit to the extent that the death benefit is equal to the account value, but after the recovery of all or a portion of the credit, the death benefit would be equal to less than purchase payments minus proportional withdrawals), or (c) the credit was applied within 12 months prior to the surrender of the contract under the medically-related surrender provision of the Contract (e.g., if the owner is diagnosed with a "fatal illness" and chooses to invoke this contract provision on that basis). (The medically-related surrender feature is not available in New York.) Applicants seek an amended order pursuant to section 6(c) from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the Insurance Company to recapture the 6.5% Credit described herein in the instances described in the preceding sentence.

Applicants' Legal Analysis:

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such 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.

2. Applicants request that the Commission, pursuant to section 6(c) of the Act, amend the Order to the extent necessary to permit the recapture of the 6.5% Credit under the circumstances described above. Applicants believe that the requested exemptions are 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.

3. Applicants submit that the recapture of the 6.5% Credit will not raise concerns under Sections 2(a)(32),

22(c) and 27(i)(2)(A) of the 1940 Act, and Rule 22c-1 thereunder for the same reasons given in support of the Order. The 6.5% Credit will be recaptured only if the owner (a) exercises his/her free look right, (b) dies within 12 months after receiving a 6.5% Credit or (c) makes a medically-related surrender within 12 months after receiving a 6.5% Credit. The amounts recaptured equal the 6.5% Credits provided by the Insurance Company from its own general account assets.

4. When PALAC recaptures the 6.5% Credit, it is merely retrieving its own assets, and the owner has not been deprived of a proportionate share of the Account's assets, because his or her interest in the 6.5% Credit amount has not vested. With respect to 6.5% Credit recaptured upon the exercise of the free-look privilege, it would be unfair to allow an owner exercising that privilege to retain a 6.5% Credit amount under a Contract that has been returned for a refund after a period of only a few days. If PALAC could not recapture the 6.5% Credit during the free look period, individuals could purchase a Contract with no intention of retaining it, and simply return it for a quick profit. Applicants also note that the Contract owner is entitled to retain any investment gain attributable to the 6.5% Credit, even if the 6.5% Credit is ultimately recaptured. Furthermore, the recapture of 6.5% Credits if death or a medically-related surrender occurs within 12 months after the receipt of a Credit is designed to provide PALAC with a measure of protection against "anti-selection." The risk here is that an owner, with full knowledge of impending death or serious illness, will make very large payments and thereby leave PALAC less time to recover the cost of the 6.5% Credit, to its financial detriment.

5. Applicants submit that the provisions for recapture of the 6.5% Credit under the Contract do not, and any such Future Contract provisions will not, violate sections 2(a)(32) and 27(i)(2)(A) of the Act, and Rule 22c-1 thereunder, and that the relief requested is consistent with the exemptive relief provided under the Order and other Commission precedent.

6. The recapture of the 6.5% Credit could be viewed as involving the redemption of redeemable securities for a price other than one based on the current net asset value of an Account. The recapture of the 6.5% Credit does not involve either of the evils that Rule 22c-1 was intended to address, namely: (a) The dilution of the value of outstanding redeemable securities of registered investment companies

through their sale at a price below net asset value or redemption or repurchase at a price above it, and (b) other unfair results, including speculative trading practices. Applicants assert that the proposed recapture of the 6.5% Credit does not pose a threat of dilution. To effect a recapture of a 6.5% Credit, interests in an owner's account will be redeemed at a price determined on the basis of the current net asset value. The amount recaptured will equal the amount of the 6.5% Credit that the Insurance Company paid out of its general account assets. Although the owner will be entitled to retain any investment gain attributable to the 6.5% Credit, the amount of that gain will be determined on the basis of current net asset value. Therefore, no dilution will occur upon the recapture of the 6.5% Credit. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the 6.5% Credit.

7. Applicants submit that their request for an amended order that applies to any Account or any Future Account established by PALAC in connection with the issuance of Contracts and Future Contracts, and underwritten or distributed by PAD or other broker-dealers, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

8. Applicants undertake that Future Contracts funded by the Accounts or by Future Accounts that seek to rely on the order issued pursuant to the application will be substantially similar to the Contracts in all material respects.

Conclusion

Applicants submit that their request for an amended order meets the standards set out in section 6(c) of the 1940 Act and that an amended order should, therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4684 Filed 3-10-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28184; 811-4193]

RSI Retirement Trust; Notice of Application

March 5, 2008.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under section 8(f) of the Investment Company Act of 1940 (the "Act").

Summary of Application: Applicant requests an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on March 4, 2008.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 25, 2008, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St., NE., Washington, DC 20549-1090. Applicant, 150 East 42nd St., New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202)551-6810, or Mary Kay Frech, 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 SEC's Public Reference Desk, 100 F Street, NE., Washington, DC 20549-1520 (tel. 202-551-5850).

Applicant's Representations and Legal Analysis

Applicant is registered under the Act as an open-end management investment company. On December 27, 2007, applicant's securityholders voted to approve a mandatory redemption of certain of applicant's securityholders and deregistration under the Act.

Applicant's securities are currently owned by 45 persons. Applicant states that its outstanding securities are not currently and will not be beneficially owned by more than 100 persons and it is not now making and does not propose to make a public offering of its securities. Applicant states that it will continue to operate as a company excepted from the definition of investment company pursuant to section 3(c)(1) of the Act. Applicant requests an order under section 8(f) of the Act declaring that it has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4750 Filed 3-10-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28181; File No. 812-13423]

CUNA Mutual Insurance Society, et al; Notice of Application

March 4, 2008.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940, as amended (the "Act" or "1940 Act") granting exemptions from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: CUNA Mutual Insurance Society ("Company"), CUNA Mutual Variable Annuity Account ("Variable Account") and CUNA Brokerage Services, Inc. ("CUNA Brokerage").

Summary of Application: Applicants seek an order under Section 6(c) of the Act, exempting them from Sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to permit, the recapture of credits previously applied to purchase payments of certain flexible premium deferred variable annuity contracts issued by the Company (the "Contracts") under the following circumstances: (1) If the Contract owner ("Owner") returns the Contract during

the right to examine period; or (2) within twelve (12) months of the annuitant's death when the Company pays a death benefit. Applicants further request that the exemptive relief extend to: (1) any other variable annuity contracts that the Company may issue in the future ("Future Contracts") that are substantially similar in all material respects to the Contracts, and are funded through the Variable Account or through other separate accounts of the Company ("Future Accounts"); and (2) any other broker-dealer, which is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA") and which in the future may act as distributor of and/or principal underwriter for, the Contracts or Future Contracts offered through the Variable Account or Future Accounts ("Future Underwriters").

Filing Date: The application was filed on September 7, 2007 and amended and restated on February 5, 2008.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 31, 2008, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549-1090. Applicants, c/o Pamela M. Krill, Esq., CUNA Mutual Insurance Society, 5910 Mineral Point Road, Madison, Wisconsin 53705.

FOR FURTHER INFORMATION CONTACT: Sally Samuel, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management at 202-551-6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551-8090).

Applicants' Representations

1. The Company is a mutual life insurance company originally organized

under the laws of Wisconsin in 1935. Effective May 3, 2007, the Company was redomesticated in Iowa.

2. Effective January 1, 2008, CUNA Mutual Life Insurance Company merged into the Company. Upon consummation of the merger, CUNA Mutual Life Insurance Company's separate corporate existence ceased by operation of law, and the Company assumed legal ownership of all of the assets of CUNA Mutual Life Insurance Company, including the Variable Account and its assets.

3. The Variable Account was established by CUNA Mutual Life Insurance Company as a separate account on December 14, 1993. The Variable Account is registered with the Commission as a unit investment trust under the 1940 Act. The Variable Account is domiciled in the State of Iowa and is a separate account under Iowa law.

4. The Variable Account is divided into 15 subdivisions (the "Subaccounts"), each of which invests only in shares of a designated portfolio of certain management investment companies (the "Funds") that serve as variable investment options under the Contracts.

5. CUNA Brokerage is an affiliate of the Company. CUNA Brokerage is registered as a broker-dealer with the Commission under the Securities Exchange Act of 1934, as well as with the securities commissions in the states in which it operates. It is a member of FINRA. CUNA Brokerage serves as distributor and principal underwriter for the Contracts.

6. The Contracts are flexible premium deferred variable annuity contracts, issued by the Company and funded through the Variable Account, that have been registered with the Commission under the Securities Act of 1933, as amended, (File No. 333-148426). The Contracts may be sold to or in connection with retirement plans that do not qualify for special tax treatment, as well as retirement plans that qualify for special tax treatment under the Internal Revenue Code of 1986, as amended (the "Code"). During the accumulation period of a Contract, Owners may allocate funds to one or more of the Subaccounts and/or to the fixed account. During the payout period, the Contracts provide for a variety of fixed and variable income payout options.

7. Owners can select one of several different charge structures, each referred to as a "Class." Each Class imposes different levels of surrender charges, and mortality and expense risk charges, as described more fully below. The

Class must be selected before a Contract is issued; once the Contract is issued, the Class cannot be changed.

8. The Owner determines at the time of application for a Contract how purchase payments will be allocated among the Subaccounts and/or the fixed account. An allocation to a Subaccount must be for at least 1% of a purchase payment and be in whole percentages. An allocation to the fixed account must be for at least \$1,000. The "Contract Value," which is the sum of the amounts of contract value in the fixed account and in the Variable Account as of the end of the valuation period, will vary with the investment performance of the Subaccounts selected. The Owner bears the entire risk for amounts allocated to the Subaccounts.

9. For each net purchase payment of at least \$500,000, the Company will enhance the Owner's Contract Value by an amount that varies by the Owner's cumulative net purchase payment level ("Contract Value Increase Enhancement"). The enhancement equals cumulative net purchase payments, multiplied by the applicable increase percentage (0.5% for cumulative net purchase payments between \$500,000 and \$999,999.99, and 0.7% for cumulative net purchase payments in excess of \$1,000,000), minus any prior increases to Contract Value as a result of the Contract Value Increase Enhancement. The Company will allocate the amount of the Contract Value Increase Enhancement according to the Owner's current purchase payment allocation instructions. The Company funds the Contract Value Increase Enhancement from its general account, and does not charge Owners for the Contract Value Increase Enhancement. The Company treats the Contract Value Increase Enhancement as Contract earnings. The Contract Value Increase Enhancement is not subject to any applicable surrender charge and will not be recouped if the Owner returns a Contract during the right to examine period. Nor will the Company recoup a Contract Value Increase Enhancement when the Company pays a death benefit. Accordingly, the Company is not seeking to recapture Contract Value Increase Enhancements.

10. If an Owner elects the Purchase Payment Credit endorsement to the Contract, the Company will enhance an Owner's Contract Value by 4% (for cumulative net purchase payments of up to \$250,000) or 5% (for cumulative net purchase payments of at least \$250,000) each time the Owner makes a purchase payment. The amount of increase in Contract Value will equal cumulative net purchase payments,

multiplied by the applicable credit percentage, minus any prior credits to Contract Value as a result of the endorsement ("Purchase Payment Credits"). The Company will allocate the amount of the Purchase Payment Credits according to the Owner's current allocation instructions for purchase payments. The Contract's mortality and expense risk charges and surrender charges are higher if an Owner elects to receive Purchase Payment Credits. The Company will treat Purchase Payment Credits as Contract earnings for purposes of assessing surrender charges and taxes under the Contract. If an Owner elects the Purchase Payment Credit endorsement, he or she will not receive the Contract Value Increase Enhancement. The Purchase Payment Credit endorsement is not available if an Owner elects L-Share Class or the Earnings Enhanced Death Benefit Rider.

11. During the right to examine period, an Owner has the right to return the Contract within 10 days after receiving it (or longer if required by state law). If an Owner returns a Contract during the right to examine period to which the Purchase Payment Credits endorsement applies, then the Company proposes to recapture any Purchase Payment Credits applied, but not to recapture any gains or to bear any losses attributable to such Purchase Payment Credits.

12. The Company will not assess surrender charges against a Contract returned during the right to examine period nor would it assess any market value adjustments.

13. During the accumulation period if: (a) An Owner dies, then no death benefit will be paid and any surviving Owner becomes the sole Owner; (b) the sole Owner (who is not also the annuitant) dies, then no death benefit will be paid and the annuitant becomes the new Owner; (c) the sole Owner (who is also an annuitant) dies—and if the deceased Owner is the sole annuitant, then the death benefit proceeds will be paid to the person to whom proceeds are payable on the death of the annuitant ("Beneficiary"), or if the deceased Owner was one of two joint annuitants, then no death benefit will be paid and the Contract will continue with the surviving annuitant as the Owner; or (d) the sole annuitant dies before the date the Owner elects to begin receiving income payments ("Payout Date"), the Company will pay the death benefit proceeds to the Beneficiary named by the Owner in a lump sum or under an income payout option (provided certain conditions are met), as elected by the Beneficiary; if the Beneficiary is the deceased annuitant's

surviving spouse, then the Beneficiary may elect to continue the Contract. (Owners and Beneficiaries also may name successor Beneficiaries.) If there is no surviving Beneficiary, the Company will pay the death benefit to the Owner or the Owner's estate.

14. An Owner may elect a standard death benefit or an enhanced death benefit. The death benefit will be reduced by any outstanding loan amount and any applicable premium expense charges not previously deducted; no surrender charge will apply. The Company proposes to recapture any Purchase Payment Credits applied to the Contract Value within 12 months of the annuitant's death when the Company pays a death benefit. However, the Company will not recapture any investment gains attributable to such Purchase Payment Credits—these gains stay with the Owner.

15. During the accumulation period, an Owner may transfer Contract Value among the Subaccounts or to or from the fixed account. Although no fee is currently charged for transfers, the Company reserves the right to charge \$10 for each transfer. Additional

restrictions apply to the frequency and amounts of transfers to and from the fixed account, and the Company may impose limitations on transfers in an attempt to detect, deter, and prevent frequent, large, or short-term transfer activity among the Subaccounts that may adversely affect Owners and other Fund shareholders.

16. At any time on or before the date income payments begin (the "Payout Date"), the Owner may surrender the Contract and receive its surrender value. The surrender value will be paid in a lump sum unless the Owner requests payment under an income payout option. At any time on or before the Payout Date, an Owner may make withdrawals of the surrender value. There is no minimum amount for withdrawals, but the maximum amount is that which would leave the remaining surrender value equal to \$2,000. A partial withdrawal request that would reduce the surrender value to less than \$2,000 is treated as a request for a full surrender of the Contract.

17. If an Owner surrenders a Contract or makes a partial withdrawal, the Company will withdraw the amount requested and may deduct a surrender

charge from the remaining Contract Value. The Company deducts such a surrender charge to compensate it for expenses related to the sale of the Contracts. Upon partial withdrawal (including periodic partial withdrawals made under the systematic withdrawal plan available under the Contract), the Company also may apply a market value adjustment. Upon surrender, the Company will deduct any applicable Contract fee, accrued but uncollected rider charges, applicable premium expense charges, a market value adjustment, and any applicable adjustment or deduction provided for by an endorsement to the Contract.

18. The amount of the surrender charge, and the length of time a surrender charge may be assessed depends on the share Class the Owner elects and whether the Purchase Payment Credits endorsement is elected. The surrender charge is calculated by multiplying the applicable charge percentage (as shown in the table below) by the amount of each purchase payment in excess of the free withdrawal amount that is surrendered.

Number of full years between date of purchase payment and date of surrender	Charge as a percentage of purchase payment—B-share class	Charge as a percentage of purchase payment—purchase payment credits elected	Charge as a percentage of purchase payment—L-share class
0	8	9	8
1	7	8	7
2	6	7	6
3	5	6	5
4	4	5	0
5	3	4	0
6	2	3	0
7 +	0	0	0

19. The surrender charge is generally calculated using the assumption that earnings are surrendered before any purchase payments and that purchase payments are surrendered on a first-in-first-out ("FIFO") basis. If the Owner elects to receive Purchase Payment Credits, however, the Company will assume that Contract Value is withdrawn as follows: (a) Purchase payments no longer subject to surrender charges ("old purchase payments"); (b) the free withdrawal amount (*i.e.*, old purchase payments plus 10% of purchase payments subject to surrender charges at the time of the withdrawal—the "annual free withdrawal amount"); (c) purchase payments subject to surrender charges ("new purchase payments") on a FIFO basis; and (d) earnings and Purchase Payment Credits.

20. Other available Contract benefits described in the Application are available for an additional charge. They

include the: Guaranteed Minimum Withdrawal Benefit Rider, Guaranteed Minimum Accumulation Benefit Rider, Income Payment Increase Endorsement, Loan Account Endorsement, Change of Annuitant Endorsement, Spousal Continuation Endorsement, Fixed Account Endorsement, Additional Income Option Endorsement, and Waiver of Surrender Charge Endorsement.

21. Certain other charges are made in connection with the Contracts. Among these charges are: a current annual Contract fee of \$30 (currently waived if the Contract Value is \$50,000 or more); a mortality and expense risk charge that is computed and deducted on a daily basis and varies by share Class and whether the Owner elected to receive Purchase Payment Credits; a daily administrative charge (annual rate of 0.15% of the average daily net assets of the Variable Account); and Fund fees

and expenses. The mortality and expense risk charge is deducted at an annual rate of 1.15% of average daily net assets of the Variable Account for B-Share Class Contracts, 1.6% of the average daily net assets of the Variable Account if an Owner elects to receive Purchase Payment Credits, and 1.65% of the average daily net assets of the Variable Account for L-Share Class Contracts.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule, or regulation under the 1940 Act 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 1940 Act.

2. Applicants request that the Commission issue an order pursuant to Section 6(c) of the 1940 Act, granting exemptions from Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act, and Rule 22c-1 thereunder to the extent necessary to permit the recapture of Purchase Payment Credits added to a Contract: (a) When an Owner returns a Contract during the right to examine period, or (b) within 12 months of the annuitant's death when a death benefit is paid.

3. Section 27(i)(2)(A) of the 1940 Act, in pertinent part, makes it unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless such contract is a redeemable security. Section 2(a)(32) of the 1940 Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof. To the extent that the recapture of the Purchase Payment Credits might be seen as a discount from the net asset value, or might be viewed as resulting in the payment to an Owner of less than the approximately proportionate share of the issuer's current net assets, the recapture of Purchase Payment Credits would trigger the need for relief absent some exemption from the 1940 Act.

4. Applicants submit that the Contracts are "redeemable securities" consistent with Section 2(a)(32) of the 1940 Act. The Contracts provide for withdrawals and surrenders of Contract Value. The contingent nature of Purchase Payment Credit recapture will be disclosed in the prospectuses for the Contracts. Accordingly, there are no restrictions on, or impediments to, withdrawals or surrenders that should cause the Contracts to be considered anything other than redeemable securities within the meaning of the 1940 Act.

5. Applicants further submit that the recapture of the Purchase Payment Credits does not deprive an Owner of his or her approximately proportionate share of the current net assets of the Variable Account. Applicants submit that the Owner's interest in the Purchase Payment Credits does not vest until the expiration of the right to examine period and of the 12-month period following the application of a Purchase Payment Credit to the Owner's Contract: until such time, the Company generally retains the right to and interest in each Owner's Contract Value representing the dollar amount of any unvested bonus amounts. Therefore,

when the Company recaptures the unvested Purchase Payment Credits, the Company is only retrieving its own assets. The Company grants Purchase Payment Credits out of its general account assets, and the amount of such Purchase Payment Credits remains assets of the Company until such bonus amounts vest with the Owner. Arguably, then, an Owner is not deprived of his or her proportionate share of the Variable Account's interests when the Company grants and recaptures unvested Purchase Payment Credits in connection with variable Contract Value.

Accordingly, the recapture of Purchase Payment Credits could be viewed as a legitimate "charge" for a benefit under the Contracts, and not as a means of reducing the amount of the Variable Account assets that an Owner otherwise would be entitled to receive.

6. It is the nature of the Purchase Payment Credits applied to variable Contract Value that an Owner obtains a benefit from Purchase Payment Credits in a rising market because any earnings on the bonus amount vest with him or her immediately. Over time this would, of course, increase the Owner's share of Contract Value in the Variable Account more than it would have increased without the Purchase Payment Credits. Conversely, in a falling market an Owner would suffer a detriment from Purchase Payment Credits because losses on the bonus amount would also "vest" with him or her immediately. Over time this would decrease the Owner's share of Contract Value in the Variable Account by more than it would have decreased had the Purchase Payment Credits never been applied.

7. Applicants submit that the operation of the Purchase Payment Credits endorsement and the proposed method of recapturing Purchase Payment Credits do not violate Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act. Taken together, these two sections of the 1940 Act do not require that the holder receive the exact proportionate share that his or her security represented at a prior time. Under these circumstances, the fact that the application of Purchase Payment Credits has a dynamic element that may cause the relative ownership positions of the Company and an Owner to shift as a result of Variable Account performance and the vesting schedule of such Purchase Payment Credits does not cause the proposed operation of the Purchase Payment Credit endorsement and the proposed method of recapturing Purchase Payment Credits to conflict with Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act. Nonetheless, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants seek

exemptions from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act to the extent deemed necessary to permit them to recapture the Purchase Payment Credits.

8. Rule 22c-1, promulgated under Section 22(c) of the 1940 Act, in pertinent part, prohibits a registered investment company issuing a redeemable security (and a person designated as authorized to consummate transactions in such security, and a principal underwriter of, or dealer in, any such security) from selling, redeeming, or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchase or sell such security. As a result of the Purchase Payment Credits available under the Contract, an Owner who made an initial purchase payment of \$10,000 in the first Contract year, for example, could be viewed as having a Contract Value of \$10,400 before any earnings accrued. The Company's addition of a Purchase Payment Credit might arguably be viewed as resulting in an Owner purchasing a redeemable security for a price below the current net asset value. Further, by recapturing the Purchase Payment Credits, the Company might arguably be redeeming a "redeemable security" for a price other than one based on the current net asset value of interests in the Variable Account. Applicants contend that these interpretations and applications of the relevant statutory and regulatory provisions are incorrect, and that the Purchase Payment Credit provisions do not conflict with Section 22(c) and Rule 22c-1.

9. Applicants submit that the recapture of Purchase Payment Credits would not trigger either of the two harms that the Commission intended to eliminate with Rule 22c-1: (a) Dilution of the interests of other security holders; and (b) speculative trading practices that are unfair to such holders. The proposed recapture of Purchase Payment Credits under the Contracts does not pose such threat of dilution. The recapture will not alter an Owner's interest in his or her Contract Value or in the Variable Account. An Owner's interest in his or her Contract Value or in the Variable Account would always be offered under the Contracts at a price determined on the basis of net asset value. The granting of a bonus amount (here, a Purchase Payment Credit) does not reflect a reduction of that price. Instead, the Company will purchase with its own money and on behalf of an Owner an interest in the Variable

Account equal to the amount of the Purchase Payment Credits. Because the Company funds Purchase Payment Credits with its own general account assets and not with Variable Account assets, no dilution will occur from the awarding of Purchase Payment Credits under the Contracts. The amount recaptured will equal the amount that the Company paid out of its general account assets for Purchase Payment Credits. (Applicants represent that it is not administratively feasible to track the bonus amount in the Variable Account after the Company applies a Purchase Payment Credit. As a result, the asset-based charges applicable to the Variable Account will be assessed against the entire amount held in the Variable Account, including the bonus amount, during the time the Purchase Payment Credit is subject to recapture. During this time, the aggregate asset-based charges assessed against an Owner's Contract Value will be higher than those that would be charged if the Owner's Contract Value did not include the bonus amount, but the increment will be only a small percentage of the bonus amount.) An Owner will retain any investment gains and bear any investment losses attributable to recaptured Purchase Payment Credits. The Company will determine the amount of any gain or loss attributable to Purchase Payment Credits on the basis of the current net asset value of Subaccount units. Thus, no dilution will occur under the proposed method for recapture of Purchase Payment Credits.

10. Applicants further submit that the other harm that Rule 22c-1 was designed to address (speculative trading practices calculated to take advantage of backward pricing) will not occur as a result of the Company's recapture of the Purchase Payment Credits. Variable annuities are designed for long-term investment and, by their nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c-1 was designed to prevent. Even if they could be so used, the recapture of Purchase Payment Credits would discourage, rather than encourage, any such trading.

11. For the reasons set forth above, Applicants submit that Rule 22c-1 should have no application to the Purchase Payment Credits because neither of the harms that Rule 22c-1 was designed to address arise in connection with the proposed recapture of Purchase Payment Credits. However, to avoid uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions of Rule 22c-1 to the

extent deemed necessary to permit them to recapture the Purchase Payment Credits available under the Contracts under the circumstances noted above.

12. Applicants submit that the Commission should grant the exemptions requested in this Application, even if the bonus amounts described herein arguably conflict with Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act, or Rule 22c-1 thereunder. The application of Purchase Payment Credits under the Contracts is generally very favorable and very beneficial to Owners. Owners who elect the Purchase Payment Credits endorsement invest not only their net purchase payments but also any Purchase Payment Credits, and receive any positive investment experience from these bonus amounts. The Company's proposed method of recapturing Purchase Payment Credits tempers this benefit somewhat, but only if an Owner cancels his or her Contract during the right to examine period, or if the Company pays Purchase Payment Credits and a death benefit during the same 12-month period. Although in a declining market, the Owner bears the downside risk of incurring losses attributable to the Purchase Payment Credits, in a rising market, the Owner receives any gains attributable to any Purchase Payment Credits applied. Applicants submit that, on balance, the Company's proposed method of recapturing Purchase Payment Credits does not diminish the overall value of the Purchase Payment Credits.

13. The Company's recapture of Purchase Payment Credits is designed to prevent anti-selection—the risk that an Owner would make significant purchase payments into the Contract solely to receive a quick profit from the Purchase Payment Credits and then withdraw his or her money. By recapturing the Purchase Payment Credits, the Company protects itself against such behavior. Likewise, if a Beneficiary were to receive death benefit proceeds under the Contract before the 12-month period after a Purchase Payment Credit had been applied without the Company's recapture of those Purchase Payment Credits, that Beneficiary, too, would profit at the Company's expense. The Company typically protects itself from this kind of anti-selection by imposing a surrender charge to recover its costs, but the Company does not apply a surrender charge when an Owner withdraws his or her money during the right to examine period or when a death benefit is paid.

14. Applicants established the charge structure for the Contracts so that the Company could recover its costs of offering the Contract over the life of the

Contract. If the Company were unable to recapture the Purchase Payment Credits and instead raised other Contract charges to cover the costs of offering Purchase Payment Credits, then the Company would be charging long-term Owners for costs actually attributable to Owners who surrender their Contracts quickly. Applicants submit, therefore, that the Purchase Payment Credits recapture should be viewed as the price of offering Purchase Payment Credits.

15. Applicants submit that the application of the Purchase Payment Credits and their recapture involve none of the abuses to which the provisions of the 1940 Act, and the rules thereunder (cited above) are directed. An Owner will always retain any investment experience attributable to Purchase Payment Credits and, except in the limited circumstances described herein, will also retain the principal amount of any Purchase Payment Credits applied. Further, the Company should be able to recapture all of its Purchase Payment Credits, paid out of its general account assets, to limit potential losses associated with offering such bonus amounts as benefits to Owners.

16. Applicants seek relief requested herein not only for themselves with respect to the Contracts, but also with respect to Future Accounts or Future Contracts described herein.

17. In addition, Applicants seek relief herein with respect to Future Underwriters (*i.e.*, a class consisting of FINRA-member broker-dealers that may also act as distributor and/or principal underwriter of the Contracts and Future Contracts).

18. Applicants state that, without the requested class relief, exemptive relief for any Future Account, Future Contract, or Future Underwriter would have to be requested and obtained separately. Applicants assert that these additional requests for exemptive relief would present no issues under the 1940 Act not already addressed herein. Applicants state that if they were to repeatedly seek exemptive relief with respect to the same issues addressed herein, investors would not receive additional protection or benefit, and investors and the Applicants could be disadvantaged by increased costs from preparing such additional requests for relief. Applicants contend that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for the Company to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Elimination of the delay

and the expense of repeatedly seeking exemptive relief would, Applicants opine, enhance their ability to effectively take advantage of business opportunities as such opportunities arise.

19. Any entity that intends to rely on the requested exemptive order currently is named as an Applicant. Any entity that relies upon the requested order in the future will comply with the terms and conditions contained in this Application.

Conclusion

For the reasons summarized above, Applicants represent that: (a) The requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act; and

(b) their request for class exemptions 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 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4686 Filed 3-10-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57424; File No. SR-CBOE-2008-22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Extending the Dividend, Merger, and Short Stock Interest Strategies Fee Cap Pilot Program

March 4, 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 29, 2008, Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by CBOE. On

March 3, 2008, the Exchange filed Amendment No. 1 to the proposal.³ CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A),⁴ and Rule 19b-4(f)(2) thereunder,⁵ 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 modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its Fees Schedule to extend until March 1, 2009, the dividend, merger, and short stock interest strategies fee cap program. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.cboe.org/legal>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE 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 currently caps market-maker, firm, and broker-dealer transaction fees associated with dividend, merger, and short stock interest strategies, as described in Footnote 13 of the CBOE Fees Schedule ("Strategy Fee Cap"). The Strategy Fee Cap is in effect as a pilot program that expired on March 1, 2008.

The Exchange proposes to extend the Strategy Fee Cap pilot program until March 1, 2009. No other changes are proposed. The Exchange believes that extension of the Strategy Fee Cap pilot program would enable the Exchange to remain competitive for these types of strategies by keeping fees low.

³ Amendment No. 1 made clarifying changes to the statutory basis section of the original filing.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(2).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4),⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities. The Exchange believes that the proposed extension of the Strategy Fee Cap pilot program will continue to benefit market participants who trade these strategies by lowering their fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder,⁹ because it establishes or changes a due, fee or other charge imposed by the Exchange. 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:

⁶ 15 U.S.C. 78f(b).

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 March 3, 2008, the date on which CBOE filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2008-22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2008-22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CBOE-2008-22 and should be submitted on or before April 1, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4682 Filed 3-10-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57429; File No. SR-CBOE-2006-36]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change, as Modified by Amendments No. 1, 2, and 3 Thereto, to Modify the Minimum Value Size for an Opening Transaction in a Currently-Opened FLEX Equity Series and to Establish a Pilot Program that Reduces the Minimum Number of Contracts Required for a FLEX Equity Option Opening Transaction in a New Series

March 4, 2008.

I. Introduction

On April 14, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to make changes to the minimum value size for an opening transaction in a currently-opened FLEX Equity series and to establish a one-and-a-half-year pilot program that reduces the minimum number of contracts required for a FLEX Equity Option opening transaction in a new series ("Pilot Program").³ On December 24, 2007, CBOE filed Amendments No. 1 and 2 to the proposed rule change.⁴ The amended proposed rule change was published for comment in the **Federal Register** on January 24, 2008.⁵ The Commission received no comments on the proposal. On March 3, 2008, CBOE filed Amendment No. 3 to the proposed rule change.⁶ This order approves the proposed rule change, as modified by Amendments No. 1, 2, and 3.

II. Description of the Proposal

CBOE is proposing to reduce the minimum value size for an opening

transaction (other than FLEX Quotes responsive to a FLEX Request for Quotes) in any FLEX Equity Option⁷ series in which there is no open interest at the time the Request for Quotes is submitted on a pilot basis for one-and-a-half years. Currently, the minimum opening transaction value size in the case of a FLEX Equity Options in a newly established series is the lesser of (i) 250 contracts or (ii) the number of contracts overlying \$1 million in the underlying securities.⁸ Under the Pilot Program, the Exchange proposes to reduce the "250 contracts" component to "150 contracts;" the \$1 million underlying value component will continue to apply unchanged.⁹ If the Exchange were to propose an extension, expansion, or permanent implementation of the Pilot Program, the Exchange would submit, along with a filing proposing any necessary amendments to the Pilot Program, a pilot program report. The report would be submitted to the Commission at least ninety days prior to the expiration date of the one-and-a-half year Pilot Program.

Given that FLEX Equity Option transactions can occur in increments of 100 or more contracts in subsequent opening transactions,¹⁰ the Exchange believes it is reasonable to permit the initial series opening transaction size to

⁷ FLEX Equity Options are flexible exchange-traded options contracts which overlie equity securities. FLEX Equity Options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

⁸ Under this formula, an opening transaction in a FLEX Equity series in a stock priced at \$40 or more would reach the \$1 million limit before it would reach the contract size limit, *i.e.*, 250 contracts times the multiplier (100) times the stock price (\$40) equals \$1 million in underlying value. For a FLEX Equity series in a stock priced at less than \$40, the 250 contract size limit applies.

⁹ Under this proposed formula, an opening transaction in a FLEX Equity series in a stock priced at approximately \$66.67 or more would reach the \$1 million limit before it would reach the contract size limit, *i.e.*, 150 contracts times the multiplier (100) times the stock price (\$66.67) equals just over \$1 million in underlying value. For a FLEX Equity series in a stock priced at less than \$66.67, the 150 contract size limit would apply.

¹⁰ Specifically, the minimum value size for a transaction in any currently-opened FLEX Equity Option series is 100 contracts in the case of opening transactions and 25 contracts in the case of closing transactions (or any lesser amount in a closing transaction that represents the remaining underlying size, whichever is less). Additionally, the minimum value size for a FLEX Quote entered in response to a Request for Quotes in FLEX Equity Options is the lesser of 25 contracts or the remaining underlying size in a closing transaction. See Exchange Rules 24A.4(a)(4)(iii)—(iv) and 24B.4(a)(5)(iii)—(iv). A "FLEX Quote" refers to (i) FLEX bids and offers entered by Market-Makers and (ii) orders to purchase and orders to sell FLEX Options entered by Exchange members other than Market-Makers, in each case in response to a Request for Quotes. See CBOE Rules 24A.1(h) and 24B.1(k).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ CBOE defines the term "FLEX Equity Option" to mean an option on a specified underlying equity security that is subject to the rules in Chapters 24A and 24B. See CBOE Rule 24A.1(e) and CBOE Rule 24B.1(f), respectively.

⁴ Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

⁵ See Securities Exchange Act Release No. 57161 (January 16, 2008), 73 FR 4293 (January 24, 2008).

⁶ Amendment No. 3 is a technical amendment that corrects a typographical error in the proposed rule language and is not subject to notice and comment.

¹¹ 17 CFR 200.30-3(a)(12).

be 150 contracts (or \$1 million in underlying value, whichever is less). The Exchange believes that the proposed reduction of the minimum value size for opening a series provides FLEX-participating members with greater flexibility in structuring the terms of FLEX Equity Options that best comports with their and their customers' particular needs. The Exchange notes that the opening size requirement for FLEX Equity Options was originally put in place to limit participation in FLEX Equity Options to sophisticated, high net worth investors rather than retail investors.¹¹ According to CBOE, it has recently received requests from broker-dealers representing institutional clients that the minimum value size for opening transactions be reduced. In proposing the reduction of the 250 contract component to 150 contracts, CBOE stated in its filing that it is cognizant of the desire to continue to provide both the requisite amount of investor protection that the minimum opening size requirement was originally designed to achieve, as well as the need for market participants to have the flexibility to serve their customers' particular investment needs.

The Exchange also believes that modifying the minimum opening transaction value size in this way will further broaden the base of institutional investors that use FLEX Equity Options to manage their trading and investment risk, including investors that currently trade in the over-the-counter ("OTC") market for customized options which can take on contract characteristics similar to FLEX Options but for which similar opening size restrictions do not apply. CBOE believes market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to, enhanced efficiency in initiating and closing out positions; increased market transparency; and heightened contra-party creditworthiness due to the role of The Options Clearing Corporation as issuer and guarantor of FLEX Equity Options.

Finally, the Exchange is also proposing to modify the minimum value size for an opening transaction in a currently-opened FLEX Equity series (other than FLEX Quotes responsive to a FLEX Request for Quotes). Presently, the minimum transaction value size for an opening transaction in a currently-opened series is 100 contracts. The

Exchange is proposing to modify the minimum size formula to the lesser of (i) 100 contracts or (ii) the number of contracts overlying \$1 million in the underlying securities. This change would only impact those FLEX Equity series in which the underlying stock is trading at more than \$100.¹²

The FLEX minimum size requirements for subsequent opening transactions in a currently-opened series is higher for certain stocks priced over \$100 than the minimum size needed to initially open the series in similarly priced stocks. The Exchange therefore believes that, this change is necessary for there to be consistency between the minimum size requirements for new series and currently-opened series when the underlying stock is trading at more than \$100.¹³

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁴ In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,¹⁵ which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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 believes that the proposed rule change, in reducing the minimum opening size from 250 contracts to 150 contracts (or an underlying value of \$1 million, whichever is less) in an initial opening transaction, should allow CBOE to better meet the needs of investors in the FLEX Equity Options market. The requirements as proposed, however, should still be significant enough to limit FLEX Equity Options to institutional and high net worth customers, the intended customers, rather than retail investors. In addition, the Commission agrees with the Exchange that the proposal to lower the opening size may allow more market participants to benefit from trading customized-type options in the Exchange's FLEX Equity Options market as opposed to the OTC market. As noted above, some of the benefits of trading on an exchange may include, among others, enhanced efficiency in initiating and closing out positions; increased market transparency; and heightened contra-party creditworthiness due to the role of The Options Clearing Corporation as issuer and guarantor of FLEX Equity Options.

As noted above, the proposal to reduce the minimum number of contracts required for a FLEX Equity Option in an initial opening transaction is being approved on a one-and-a-half-year pilot basis. The Commission has requested that CBOE provide a report to it should CBOE wish to extend the Pilot Program or implement the change on a permanent basis. At a minimum, the report must provide (i) data and analysis on the open interest and trading volume in FLEX Equity Options for which series were opened with a minimum opening size of 150 to 249 contracts and less than \$1 million in underlying value; and (ii) analysis on the types of investors that initiated opening FLEX Equity Options transactions (*i.e.*, institutional, high net worth, or retail, if any). The report, along with any filing to extend or permanently implement the Pilot Program,¹⁶ should be submitted to the Commission at least ninety days prior to the expiration date of the one-and-a-half-year Pilot Program.

The report should provide the Commission with information on whether the intended customers (institutional and high net worth) are in fact the investors utilizing the lower

¹² Under this proposed formula, a transaction in a currently-opened FLEX Equity series in a stock priced at more than \$100 would reach the \$1 million limit before it would reach the contract size limit, *i.e.*, 100 contracts times the multiplier (100) times the stock price (\$100) equals \$1 million in underlying value. Telephone conference between Jennifer Lamie, Assistant General Counsel, CBOE, and Kristie Diemer, Special Counsel, Division of Trading and Markets, Commission, on February 28, 2008 clarifying that the underlying stock price would have to be trading at "more than \$100" versus "\$100 or more" to meet a \$1 million limit before the 100 contract size limit. ("February 28 Telephone Conversation.")

¹³ For example, a new FLEX Equity series in a stock trading at \$110 could open with an initial transaction size of 91 contracts, *i.e.*, 91 contracts times the multiplier (100) times the stock price (\$110) equals just over \$1 million in underlying value. Once the series is opened, absent the proposed change, any further opening transactions would require a minimum contract size of 100 contracts, despite the fact that with the stock price of \$110, this would be valued at \$1.1 million, more than the value of the initial opening transaction.

¹⁴ 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).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ CBOE agreed to submit any related filing (in addition to the report) at least ninety days prior to the expiration of the Pilot Program in the February 28 Telephone Conversation. See *supra*, note 12.

¹¹ The existing customer base for FLEX Options includes both institutional investors and high net worth individuals.

opening contract requirement in the FLEX Equity Options market, as well as whether the lower opening size has increased liquidity in FLEX Equity Options. Based on the report's information, the Commission should be able to determine whether the Pilot Program should be extended or approved on a permanent basis, consistent with the Act.

The Commission also believes that the aspect of the proposal that modifies the minimum value size for an opening transaction in a currently-opened FLEX Equity series (other than FLEX Quotes responsive to a FLEX Request for Quotes) to the lesser of (i) 100 contracts or (ii) the number of contracts overlying \$1 million in the underlying securities is also consistent with the Act and the rules and regulations thereunder. The Commission agrees with the Exchange that this change will provide consistency between the minimum size requirements for opening transactions in both new series and currently-opened series when the underlying stock is trading at more than \$100. The change avoids the result that, for situations where the underlying stock is priced over \$100, the effect of current CBOE rules is to require a higher opening amount for currently-opened series than for newly established series.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁷ that the proposed rule change (SR-CBOE-2006-36), as modified by Amendments No. 1, 2, and 3, be, and hereby is, approved with respect to the minimum value size for an opening transaction in a currently-opened FLEX Equity series (other than FLEX Quotes responsive to a FLEX Request for Quotes) and to establish a Pilot Program for one-and-a-half-years with respect to the reduced minimum number of contracts required for a FLEX Equity Option Opening transaction in a new series.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57430; File No. SR-NASDAQ-2008-012]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Trade Shares of the GreenHaven Continuous Commodity Fund Pursuant to Unlisted Trading Privileges

March 4, 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, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves it on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to trade, pursuant to unlisted trading privileges ("UTP"), shares ("Shares") of the GreenHaven Continuous Commodity Fund ("Fund").

The text of the proposed rule change is available from the Exchange's Web site (<http://nasdaq.complinet.com>), at the principal office of 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 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

Nasdaq proposes to trade pursuant to UTP the Shares, which represent beneficial ownership interests in the GreenHaven Continuous Commodity Index Master Fund's ("Master Fund") net assets, consisting solely of the common units of beneficial interest of the Master Fund ("Master Fund Units"). A rule proposal to list and trade the Shares has been filed by the American Stock Exchange LLC ("Amex") and approved by the Commission.³

The investment objective of the Fund and the Master Fund is to reflect the performance of the Continuous Commodity Total Return Index ("Index" or "CCI-TR") over time, less the expenses of the operations of the Fund and the Master Fund. The Index is widely viewed as a broad measure of overall commodity price trends because of the diverse nature of the Index's constituent commodities. The CCI-TR consists of 17 commodity futures prices. The 17 commodities are currently corn, wheat, soybeans, live cattle, lean hogs, gold, silver, copper, cocoa, coffee, sugar #11, cotton, orange juice, platinum, crude oil, heating oil, and natural gas. The Index is calculated to produce an unweighted geometric mean of the individual commodity price relatives, *i.e.*, a ratio of the current price to the base year average price. The Fund pursues its investment objective by investing substantially all of its assets in the Master Fund. The Master Fund pursues its investment objective by investing in a portfolio of exchange-traded futures contracts ("Commodity Futures Contracts") on the commodities comprising the Index ("Index Commodities"). The Master Fund also holds cash and U.S. Treasury securities for deposit with the Master Fund's Commodity Broker as margin and other high-credit-quality short-term fixed income securities. The Master Fund's portfolio is managed to reflect the performance of the Index over time.

The Funds will not be subject to registration and regulation under the Investment Company Act of 1940. The Master Fund is not actively managed, but instead seeks to track the performance of the CCI-TR. To maintain the correspondence between the composition and weightings of the Index Commodities comprising the

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56969 (December 14, 2007), 72 FR 724211 (December 20, 2007) (SR-Amex-2007-53) ("Amex Proposal").

Index, GreenHaven Commodity Services LLC ("Managing Owner")⁴ may adjust the portfolio on a daily basis to conform to periodic changes in the identity and/or relative weighting of the Index Commodities. The Managing Owner will also make adjustments and changes to the portfolio in the case of significant changes to the Index.

Dissemination and Availability of Information About the Underlying Index, Underlying Futures Contracts and the Shares

According to the Amex Proposal, Reuters is the owner, publisher, and custodian of CCI-TR, which represents a total return version of the ninth revision (as of 1995) of the original Commodity Research Bureau (CRB) Index. Values of the underlying Index are computed by Reuters and widely disseminated every 15 seconds during Amex's trading hours, which corresponds to Nasdaq's regular market session.

CCI-TR is calculated to offer investors a representation of the investable returns that an investor should expect to receive by attempting to replicate the CCI index by buying the respective commodity futures and collateralizing their investment with U.S. Government securities (*i.e.*, 90-day T-Bills). The CCI-TR takes into account the economics of rolling listed commodity futures forward to avoid delivery and maintain exposure in liquid contracts. To achieve the objectives of the index, Reuters has established rules for calculation of the index. Specifically, only settlement and last-sale prices are used in the Index's calculation, bids and offers are not recognized. Where no last-sale price exists, typically in the more deferred contract months, the previous days' settlement price is used.

According to the Amex Proposal, the Managing Owner represents that it will seek to arrange to have the Index calculated and disseminated on a daily basis through a third party if the Index Sponsor ceases to calculate and disseminate the Index. If, however, the Managing Owner is unable to arrange the calculation and dissemination of the Index, Amex has represented in the Amex Proposal that it will undertake to delist the Shares. In such event, the

Exchange would cease trading the Shares.

The disseminated value of the Index will not reflect changes to the prices of the Index Commodities between the close of trading of the various Commodity Futures Contracts and the close of trading of Nasdaq's regular market session. In addition, Reuters and Amex on their respective Web sites will also provide any adjustments or changes to the Index.

The daily settlement prices for each of the Commodity Futures Contracts held by the Master Fund are publicly available on the NYBOT, New York Mercantile Exchange ("NYMEX"), Chicago Mercantile Exchange ("CME"), and Chicago Board of Trade ("CBOT") Web sites.⁵ In addition, various data vendors and news publications publish futures prices and data. Futures contract quotes and last-sale information for the Commodity Futures Contracts on the Index Commodities is widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, complete real-time data for the Commodity Futures Contracts are available by subscription from Reuters and Bloomberg. The various futures exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for each Commodity Futures Contract are also available from the various futures exchanges on their Web sites as well as other financial informational sources.

The Web site for the Fund and/or Amex, which are publicly accessible at no charge, will contain the following information: (1) The current NAV per Share daily and the prior business day's NAV per Share and the reported closing price; (2) the midpoint of the bid-ask price⁶ in relation to the NAV per Share as of the time the NAV per Share is calculated ("Bid-Ask Price"); (3) calculation of the premium or discount of such price against such NAV per Share; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; (5) the Prospectus; and (6) other applicable quantitative information.

According to the Amex Proposal, Amex intends to disseminate for the

Fund on a daily basis by means of CTA/CQ High Speed Lines information with respect to the corresponding Indicative Fund Value (as discussed below), recent NAV's per Share and shares outstanding. Amex will also make available on its Web site daily trading volume of the Shares, closing prices of the Shares, and the NAV per Share. The closing prices and settlement prices of the Commodity Futures Contracts held by the Master Fund are also readily available from the NYMEX, CBOT, CME, and NYBOT; automated quotation systems; published or other public sources; or on-line information services such as Bloomberg or Reuters.

The Bank of New York (the "Administrator") calculates and disseminates, once each trading day, the NAV per Share to market participants. Amex has represented that it will obtain a representation (prior to listing of the Funds) that the NAV per Share will be calculated daily and made available to all market participants at the same time. In addition, the Administrator causes to be made available on a daily basis the corresponding Cash Deposit Amounts to be deposited in connection with the issuance of the respective Shares. In addition, other investors can request such information directly from the Administrator, and such information will be provided upon request.

In order to provide updated information relating to the Fund for use by investors, professionals, and persons wishing to create or redeem the Shares, Amex will disseminate, through the facilities of CTA, an updated Indicative Fund Value for the Fund, according to the Amex Proposal. The Indicative Fund Value will be disseminated on a per-Share basis at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET. The Indicative Fund Value will be calculated based on the cash required for creations and redemptions (*i.e.*, NAV x 50,000) for the Fund adjusted to reflect the price changes of the Commodity Futures Contracts and the holdings of U.S. Treasury securities and other high-credit-quality short-term fixed income securities. In addition, quotations and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

The Indicative Fund Value will not reflect changes to the price of an underlying commodity between the close of trading of the futures contracts at the relevant futures exchanges and the close of trading of Nasdaq's regular market session on the Exchange. The Indicative Fund Value will not reflect changes to the price of an underlying commodity in the pre-market or post-

⁴ GreenHaven Commodity Services LLC, a Delaware limited liability company, will serve as the Managing Owner of the Fund and the Master Fund. The Managing Owner will serve as the commodity pool operator ("CPO") and commodity trading advisor ("CTA") of the Fund and the Master Fund. The Managing Owner is registered as a CPO and CTA with the Commodity Futures Trading Commission ("CFTC") and is a member of the National Futures Association ("NFA").

⁵ See <http://www.nybot.com>, <http://www.nymex.com>, <http://www.cme.com> and <http://www.cbots.com>.

⁶ The bid-ask price of Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

market trading sessions. The value of a Share may accordingly be influenced by non-concurrent trading hours between Exchange and the various futures exchanges on which the futures contracts based on the Index commodities are traded. While the Shares will trade on the Exchange from 7 a.m. to 8 p.m. ET, the trading hours for each of the Index commodities underlying the futures contracts will vary.

While the markets for futures trading for each of the Index commodities is open, the Indicative Fund Value can be expected to closely approximate the value per Share of the corresponding Basket Amount. However, during Exchange trading hours when the Commodity Futures Contracts have ceased trading, spreads and resulting premiums or discounts may widen and, therefore, increase the difference between the price of the Shares and the NAV of the Shares. The Indicative Fund Value on a per-Share basis disseminated during Nasdaq's regular market session should not be viewed as a real-time update of the NAV, which is calculated only once a day.

Trading Halts

Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121. The conditions for a halt include a regulatory halt by the listing market. UTP trading in the Shares will also be governed by provisions of Nasdaq Rule 4120(b) relating to temporary interruptions in the calculation or wide dissemination of the Indicative Fund Value. Additionally, Nasdaq may cease trading the Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. Nasdaq will also follow any procedures with respect to trading halts as set forth in Nasdaq Rule 4120(c). Finally, Nasdaq will stop trading the Shares if the listing market delists them.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to its existing rules governing the trading of equity securities, including Nasdaq Rule 4630, which governs trading of Commodity-Related Securities. The trading hours for the Shares on the Exchange would be 7 a.m. to 8 p.m., ET, unless such trading hours are changed by a subsequent rule change.

Surveillance

Nasdaq believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on Nasdaq. Trading of the Shares through Nasdaq will be subject to FINRA's surveillance procedures for equity securities in general.⁷ The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG.⁸

Information Circular

Nasdaq is able to obtain information regarding trading in the Shares and the underlying Futures Contracts through its members in connection with the proprietary or customer trades that such members effect on any relevant market. Nasdaq is party to Information Sharing Agreements with NYMEX for the purpose of providing information in connection with trading in or related to Futures Contracts traded on those markets. If the Fund trades on other exchanges, Nasdaq will enter into information sharing agreements with those particular exchanges.

Prior to the commencement of trading, Nasdaq will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Nasdaq Rule 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Indicative Fund Value is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the risks involved in trading the Shares during the pre-market and post-market trading sessions when an updated Indicative Fund Value will not be calculated or publicly disseminated; and (6) trading information. The Information Circular will also discuss any exemptive, no-action, or interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject

⁷ FINRA surveils trading on Nasdaq pursuant to a regulatory services agreement. Nasdaq is responsible for FINRA's performance under this regulatory services agreement.

⁸ For a list of the current members and affiliate members of ISG, see <http://www.isgportal.com>. CBOT, CME, and NYBOT are members of ISG.

to various fees and expenses described in the relevant registration statement. The Information Circular will also reference the fact that there is no regulated source of last-sale information regarding physical commodities, that the Commission has no jurisdiction over the trading of commodity futures contracts, and that the CFTC has regulatory jurisdiction over the trading of commodity futures contracts.

The Information Circular will also disclose the trading hours of the Shares of the Fund and that the NAV for the Shares will be calculated after 4 p.m. ET, each trading day.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, Nasdaq believes that the proposed rule change is consistent with the section 6(b)(5)⁹ requirements that an exchange have rules designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, Nasdaq believes that the proposal is consistent with Rule 12f-5 under the Act¹⁰ because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

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 neither solicited nor received comments on the proposal.

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:

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 17 CFR 240.12f-5.

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2008-012 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-NASDAQ-2008-012. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2008-012 and should be submitted on or before April 1, 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 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹¹ In particular, the

Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,¹² which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with section 12(f) of the Act,¹³ which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.¹⁴ The Commission notes that it previously approved the listing and trading of the Shares on Amex.¹⁵ The Commission also finds that the proposal is consistent with Rule 12f-5 under the Act,¹⁶ which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with section 11A(a)(1)(C)(iii) of the Act,¹⁷ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Shares are disseminated through the facilities of the CTA and the Consolidated Quotation System. In addition, Amex will calculate and

disseminate the Indicative Fund Value per Share through the facilities of the Consolidated Tape Association at least every 15 seconds throughout Amex trading hours for the Shares. Amex will also make available on its Web site daily trading volume, the closing prices, and the NAV. Quotations and last-sale information regarding the Commodity Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, complete real-time data for the Commodity Futures Contracts is available from Reuters and Bloomberg. The relevant futures exchanges also provide various market data and contract specifications for each Commodity Futures Contract on their respective Web sites.

The Commission also believes that the proposal appears reasonably designed to preclude trading of the Shares if transparency is impaired or there is unfair dissemination of the NAV. Trading in the Shares will be subject to Nasdaq Rule 4120(b), which provides that, if the listing market halts trading when the Indicative Fund Value is not being calculated or disseminated, the Exchange also would halt trading. Nasdaq also will halt trading in the Shares if it learns that the listing market has instituted a regulatory halt, which would include instances where Amex halts trading in the Shares because the NAV per Share is not disseminated to all market participants at the same time. Lastly, the Exchange has represented that it may halt trading in the Shares if other unusual conditions or circumstances exist which make further dealings on the Exchange detrimental to the maintenance of a fair and orderly market.

In support of this proposal, the Exchange has made the following additional representations:

1. The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules.
2. Prior to the commencement of trading, the Exchange would inform its members in an Information Bulletin of the special characteristics and risks associated with trading the Shares.
3. The Information Bulletin also would discuss the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction.

This approval order is based on the Exchange's representations.

The Commission notes that, if the Shares should be delisted by the listing

¹¹ In approving this rule change, the Commission notes that it has considered the proposal's impact on efficacy, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78 I(f).

¹⁴ Section 12(a) of the Act, 15 U.S.C. 78 I(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

¹⁵ See *supra* note 3.

¹⁶ 17 CFR 240.12f-5.

¹⁷ 15 U.S.C. 78k-1(a)(1)(C)(iii).

exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the listing and trading of the Shares on Amex is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit this finding or would preclude the trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for the Shares.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-NASDAQ-2008-012) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E8-4749 Filed 3-10-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57433; File No. SR-NYSE-2008-15]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide a Credit to Members for Execution of Orders Sent Directly to a Floor Broker that Adds Liquidity to the Exchange

March 5, 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 28, 2008, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act³ and Rule

19b-4(f)(2) thereunder,⁴ which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its equity transaction fees, for implementation on March 1, 2008. Member Organizations will receive a \$.0004 per share credit for execution of orders sent directly to the floor broker for representation on the NYSE when adding liquidity to the NYSE Display Book[®] system (including Percentage Orders). The text of the proposed rule change is available at <http://www.nyse.com>, the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its equity transaction fees, for implementation on March 1, 2008. Member organizations will receive a \$.0004 per share credit for execution of orders sent directly to the floor broker for representation on the NYSE when adding liquidity to the NYSE Display Book system⁵ (including Percentage

Orders).⁶ Technological limitations⁷ make it impossible for floor brokers to post orders on other markets while at the point of sale on the Exchange. Therefore, unlike other Exchange users, they are unable to benefit from the incentives certain other markets provide to customers who provide liquidity. The time that would elapse if a floor broker sent the order to his booth or upstairs trading desk for execution on another market means that, if the floor broker utilized this alternative, the trade would likely not get executed at the desired price. The Exchange believes this disparity places floor brokers at a competitive disadvantage to other Exchange customers and believes that the proposed credit will mitigate the effects of that disadvantage while also attracting additional liquidity to the Exchange.

The Exchange believes the credit is justified because of the importance of the floor brokers to the continuation of the floor as an integral part of the Exchange's market model. The Exchange's market model integrates the auction market with automated trading. Essential to this model is the interaction between the specialists, floor brokers, and orders in the Display Book system, which creates opportunities for price improvement, provides information about changing market conditions, and serves as a catalyst to trading. The Exchange believes that this incentive will allow floor brokers to remain competitive.

The Exchange's 2008 Price List is also being modified to reflect the fact that it is no longer necessary to note that Percentage Orders adding liquidity to the NYSE are free of charge, as Percentage Orders can only be accepted by Exchange systems if sent through a floor broker's hand-held device, and thus all Percentage Orders that were formerly free will now receive the \$.0004 per share credit.

⁶ An order adds liquidity to the market if it is posted on the book for execution against incoming orders on the contra side. Generally, Exchange customers are able to send their orders to other markets to avail themselves of incentives those markets provide to customers who provide liquidity. Floor brokers add liquidity to the market by posting orders either as e-Quotes or as DOT or Percentage Orders. Non-electronic trades on the Exchange floor do not add liquidity to the book and are either charged a fee of \$.0004 per share (if they are non-electronic agency transactions of less than 10,000 shares between brokers in the crowd) or are free (if they are non-electronic trades of 10,000 shares or more).

⁷ The Exchange's order management system on the floor, the Broker Booth Support System[®] (BBSS), is not configured to route orders away from the floor to another market.

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 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).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the specialists, contains the Book, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act⁸ in general, and furthers the objectives of section 6(b)(4) of the Act⁹ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed credit represents an equitable allocation of reasonable dues, fees, and other charges because floor brokers are integral to the Exchange's market model and the proposed credit lessens the impact on floor brokers of the competitive disadvantage arising out of the difficulty they experience in availing themselves or their customers of liquidity credits on other markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is filed pursuant to section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder¹¹ because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2008-15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2008-15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2008-15 and should be submitted on or before April 1, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-4747 Filed 3-10-08; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11184]

Idaho Disaster #ID-00007 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Idaho, dated 03/04/2008.

Incident: Severe Winter Storms and Extraordinary Snowfall.

Incident Period: 01/25/2008 through 02/29/2008.

Effective Date: 03/04/2008.

EIDL Loan Application Deadline Date: 12/04/2008.

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 EIDL declaration, applications for economic injury 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: Bonner, Clearwater, Kootenai.

Contiguous Counties:

Idaho: Benewah, Boundary, Idaho, Latah, Lewis, Nez Perce, Shoshone;
Montana: Lincoln, Mineral, Missoula, Sanders;
Washington: Pend Oreille, Spokane.

The Interest Rate is: 4.000 percent.

The number assigned to this disaster for economic injury is 111840.

The States which received an EIDL Declaration Number are Idaho, Montana, Washington.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: March 4, 2008.

Steven C. Preston,
Administrator.

[FR Doc. E8-4790 Filed 3-10-08; 8:45 am]

BILLING CODE 8025-01-P

⁸ 15 U.S.C. 78f

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION**Public Federal Regulatory Enforcement Fairness Hearing; Region VII Regulatory Fairness Board**

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, notice is hereby given that the U.S. Small Business Administration (SBA) Region VII Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a National Regulatory Fairness Hearing on Thursday, March 20, 2008, at 9 a.m. The forum is open to the public and will take place at the Wichita Chamber of Commerce, 350 West Douglas Avenue, Wichita, KS 67202. The purpose of the meeting is for Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

Anyone wishing to attend or make a presentation must contact Sherry Clary, in writing or by fax, in order to be placed on the agenda. Sherry Clary, Marketing Assistant, SBA, Kansas District Office, 271 West 3rd Street North, Suite 2500, Wichita, KS 67202, phone (316) 269-6273, Ext. 223 and fax (202) 481-5591, e-mail: SherryL.clary@sba.gov.

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Cherylyn LeBon,

Assistant Administrator for Intergovernmental Affairs, SBA Committee Management Officer.

[FR Doc. E8-4855 Filed 3-10-08; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Intent To Rule on Request To Release Airport Property at the Shafter-Minter Field Airport, Shafter, CA**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Shafter-Minter Field Airport under the provisions of section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before April 10, 2008.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Brian Armstrong, Manager, Federal Aviation Administration, Los Angeles Airports District Office, LAX-600, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Dana Mulder, President, Board of Directors, Minter Field Airport District, at the following address: Shafter Airport/Minter Field, 201 Aviation Street, Shafter, CA 93263.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Armstrong, Manager, Federal Aviation Administration, Los Angeles Airports District Office, LAX-600, 15000 Aviation Blvd., Lawndale, CA 90261, Telephone: (310) 725-3644, e-mail: Brian.Armstrong@faa.gov, fax: (310) 725-6810. The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Shafter-Minter Field Airport under the provisions of the AIR 21. The following is a brief overview of the request:

The Minter Field Airport District, the owner of Shafter-Minter Field Airport requests the release of certain land to enable the exchange of that land for other property contiguous to airport property. The land identified for release consists of approximately 44.7 acres located north of Lerdo Highway and west of the Friant Kern Canal. The Friant Kern Canal is an open canal located on an easement that has existed since the property was owned by the Federal government. The canal physically separates the subject property from the remainder of the airport. The property to be acquired consists of approximately 32 acres located contiguous to the previous eastern boundary of the airport, north of Lerdo Highway and east of State Highway 99. Appraisals of the two parcels were completed in 1993 and again in 2000. In 2000, the Kern County General Services Administration concluded that the market value of property being released was \$745,000. The value of the property acquired was \$816,000. Based on this information, the Minter Field Airport District and Shafter-Minter Field Airport benefited from the exchange as a result of the higher property value of the land acquired.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION**

CONTACT. In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the Shafter-Minter Field Airport, telephone number (805) 393-0402.

Issued in Los Angeles, California on February 27, 2008.

Mark McClardy,

Manager, Airports Division.

[FR Doc. E8-4520 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****RTCA Program Management Committee**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held March 13, 2008 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, 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 Program Management Committee meeting. The agenda will include:

March 13:

Opening Session (Welcome and Introductory Remarks, Review/ Approve Summary of December 6, 2007 Meeting, Paper No. 021-08/PMC-593)
Publication Consideration/Approval: Final Draft, New Document, Minimum Operational Performance Standards (MOPS) for Helicopter Terrain Awareness and Warning System (HTAWS) Airborne Equipment, RTCA Paper No. 015-08/PMC-592, prepared by SC-212
Final Draft, New Document, Minimum Operational Performance Standards for Rechargeable Lithium Battery Systems, RTCA Paper 037-OS/PMC-594, prepared by SC-211
Final Draft, New Document, Minimum Operational Performance Standards for GPS Ground-based

Regional Augmentation System
Airborne Equipment, RTCA Paper
No. 040-08/PMC-597, prepared by
SC-159

Final Draft, Revised DO-235A,
Assessment of Radio Frequency
Interference Relevant to the GNSS
LI Frequency Band, RTCA Paper
No. 039-07/PMC-595, prepared by
SC 159

Discussion:

Terrain, Obstacle and Aerodrome
Mapping Data—Discussion—
Possible New Special Committee
SC-205—Software Considerations—
Presentation
Department of Homeland Security
eLORAN News Release—Discussion
Special Committee Chairman's
Reports
RICA Annual Awards—Review
Nominations

Action Item Review:

SC-147—Traffic Alert & Collision
Avoidance System-Discussion PMC
Ad Hoc Subgroup—Report—New
Special Committee
Recommendation
SC-203—Unmanned Aircraft Systems
(UAS)—Discussion-Status Review—
PMC Ad Hoc Subgroup—Report
SC-214—Standards for Air Traffic
Data Communications Services—
Discussion—Review/Approve
Terms of Reference

Closing Session (Other Business, Document Production, 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 14,
2008.

Francisco Estrada C.,
RTCA Advisory Committee.

[FR Doc. E8-4519 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2008-07]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of petition for exemption
received.

SUMMARY: This notice contains a
summary of a petition seeking relief
from specified requirements of 14 CFR.
The purpose of this notice is to improve
the public's awareness of, and
participation in, this aspect of FAA's
regulatory activities. Neither publication
of this notice nor the inclusion or
omission of information in the summary
is intended to affect the legal status of
the petition or its final disposition.

DATES: Comments on this petition must
identify the petition docket number
involved and must be received on or
before March 31, 2008.

ADDRESSES: You may send comments
identified by Docket Number FAA-
2007-0272 using any of the following
methods:

- Government-wide rulemaking Web
site: Go to <http://www.regulations.gov>
and follow the instructions for sending
your comments electronically.

- Mail: Send comments to the Docket
Management Facility; U.S. Department
of Transportation, 1200 New Jersey
Avenue, SE., West Building Ground
Floor, Room W12-140, Washington, DC
20590.

- Fax: Fax comments to the Docket
Management Facility at 202-493-2251.

- Hand Delivery: Bring comments to
the Docket Management Facility in
Room W12-140 of the West Building
Ground Floor at 1200 New Jersey
Avenue, SE., Washington, DC, between
9 a.m. and 5 p.m., Monday through
Friday, except Federal holidays.

Privacy: We will post all comments
we receive, without change, to <http://www.regulations.gov>, including any
personal information you provide.
Using the search function of our docket
Web site, anyone can find and read the
comments received into any of our
dockets, including the name of the
individual sending the comment (or
signing the comment for an association,
business, labor union, etc.). You may
review DOT's complete Privacy Act
Statement in the **Federal Register**
published on April 11, 2000 (65 FR
19477-78).

Docket: To read background
documents or comments received, go to
<http://www.regulations.gov> at any time
or to the Docket Management Facility in
Room W12-140 of the West Building
Ground Floor at 1200 New Jersey
Avenue, SE., Washington, DC, between
9 a.m. and 5 p.m., Monday through
Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Tyneka Thomas (202) 267-7626 or
Laverne Brunache (202) 267-3133,

Office of Rulemaking, Federal Aviation
Administration, 800 Independence
Avenue, SW., Washington, DC 20591.

This notice is published pursuant to
14 CFR 11.85.

Issued in Washington, DC, on March 5,
2008.

Pamela Hamilton-Powell,
Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2007-0272.

Petitioner: Centurion Air Cargo.

Section of 14 CFR Affected: 14 CFR
61.159.

Description of Relief Sought: To
permit Centurion Air Cargo to train and
check second-in-command applicants,
who do not meet the aeronautical
experience requirements of 14 CFR
61.159, in a Level C Flight Simulation
Training Device.

[FR Doc. E8-4801 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Brown County, WI

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Notice of intent to prepare an
Environmental Impact Statement.

SUMMARY: The FHWA is issuing this
notice to advise the public that an
Environmental Impact Statement will be
prepared for proposed highway corridor
development in the southern part of the
Green Bay Metropolitan Area in Brown
County, Wisconsin by the Wisconsin
Department of Transportation
(WisDOT).

FOR FURTHER INFORMATION CONTACT:
Stephanie Hickman, FHWA, Suite 8000,
525 Junction Road, Madison, WI 53717;
Telephone: (608) 829-7503.

SUPPLEMENTARY INFORMATION: The
Federal Highway Administration
(FHWA), in cooperation with the
Wisconsin Department of
Transportation (WisDOT) and the
Brown County Planning Commission
(BCPC), will prepare an Environmental
Impact Statement on proposed highway
corridor development in the southern
part of the Green Bay metropolitan area.
The BCPC completed a transportation
plan update in 2005, with an
amendment in 2007 that indicates that
projected traffic volumes in the
southern portion of the Green Bay
metropolitan area would require
additional improvements to the area.

The plans suggest that the most effective method of handling transportation demand would be the addition of a Fox River bridge and connecting roadway segments. Federal, state and local agencies recognize the need to complete an environmental analysis to identify the best solutions to the projected travel demand issues.

The study area for this EIS includes the Cities of Green Bay and DePere, the Villages of Allouez, Ashwaubenon, Bellevue, and Hobart, and the Towns of Lawrence, Rockland, Glenmore, and Ledgeview.

Public involvement will be solicited throughout this process including involvement from minority and low-income populations in the project study area to ensure that any construction in the area does not create disproportionately high and adverse environmental and health impacts to these communities. Public workshops and a series of public information meetings will be held during the project study. Public notice will be given as to the time and place of all workshops and public information meetings. All meetings and workshops will be held at accessible times and locations. In addition, a public hearing will be held after the Environmental Impact Statement has been prepared.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Additional information may be found on the Brown County Planning Commission Web site at: http://www.co.brown.wi.us/planning_and_land_services/planning/county_web//transportation.html. Comments and questions concerning the proposed action and the Environmental Impact Statement should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: March 5, 2008.

Stephanie J. Hickman,

*Environmental Programs Coordinator,
Federal Highway Administration, Madison,
Wisconsin.*

[FR Doc. E8-4775 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Hernando and Citrus Counties, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Cancellation of Notice Intent.

SUMMARY: The FHWA is issuing this notice of cancellation to advise the public that we are no longer lead Federal Agency for preparation of an Environmental Impact Statement (EIS) for a proposed highway project in Hernando and Citrus Counties, Florida. This is formal cancellation of the Notice of Intent that was published in the **Federal Register** on June 11, 2002.

FOR FURTHER INFORMATION CONTACT: George Hadley, Environmental Programs Coordinator, Federal Highway Administration, 545 John Knox Road, Suite 200, Tallahassee, Florida 32303, Telephone 850-942-9650 extension 3011.

SUPPLEMENTARY INFORMATION: The notice of intent to prepare an EIS for a proposal to extend the Suncoast Parkway (SR 589) from its present terminus at U.S. 98 in Hernando County to U.S. 19 south of the Citrus-Levy County line, a distance of approximately 30 miles is rescinded.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to this program.)

Issued On: March 3, 2008.

George B. Hadley,

*Environmental Programs Coordinator,
Tallahassee, Florida.*

[FR Doc. E8-4792 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No.: NHTSA-2008-0044]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway

ACTION: Request for public comment on proposed collections of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and budget (OMB). Under procedures established

by the Paperwork Reduction Act of 1995 (PRA), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes one collection of information or which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before May 12, 2008.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Laurie Flaherty, Office of Emergency Medical Services, NTI-140, telephone (202) 366-2705, fax (202) 366-7721, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the PRA, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the Federal Register providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

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

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

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

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

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Enhance 911 (E9-1-1) Grant Program.

OMB Control Number:
Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: New collection.

Affected Public: Eligible applicants as defined by the E9-1-1 Act of 2004.

Form Number: HS-217.

Abstract: U.S. Code Title 47, Chapter 8, Subchapter III, Section 942 authorizes the establishment of a joint grant program between the Assistant Secretary of Commerce and the Administrator of the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation to facilitate coordination among all parties involved in the organization of E9-1-1 services and for the establishment of an E9-1-1 Implementation Coordination Office (ICO). The ICO shall develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of E9-1-1 services.

Eligibility for a section 942 grant is based upon the entity's ability to certify in its application the following: (1) The entity has coordinated its application with the public safety answering points (PSAP's); (2) The entity has designated a single officer or governmental body to serve as the coordinator of implementation of E9-1-1 services; (3) The entity has established a plan for the coordination of and implementation of E9-1-1 services; (4) The entity has integrated telecommunications services involved in the implementation of E9-1-1 services; (5) No portion of any designated E9-1-1 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expected for any purpose other than the purposes for which such charges are designated during the period beginning 180 days immediately preceding the date of application and continuing through the period which the grant funds are available.

The information collected for this grant program is to include application submissions and the certification requirements. An applicant that seeks to qualify must submit an application containing information demonstrating that it satisfies the grant criteria. With respect to each of the criteria selected, the proposed rule would require certain supporting submissions from the State to demonstrate that it meets grant criteria.

Estimated Annual Burden: 5200 hours.

Estimated Number of Respondents: 56.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden

of the proposed information collection; 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 on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: March 6, 2008.

Marilena Amoni,

Associate Administrator for Research and Program Development.

[FR Doc. 08-1002 Filed 3-10-08; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-364 (Sub-No. 14X)]

Mid-Michigan Railroad, Inc.— Abandonment Exemption—in Kent, Ionia, and Montcalm Counties, MI

On February 20, 2008, Mid-Michigan Railroad, Inc. (MMRR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 seeking an exemption from the provisions of 49 U.S.C. 10903 for the abandonment of a 24.70-mile rail line between milepost 103.20 at Lowell, MI, and milepost 78.50, at Greenville, MI, at the end of the line in Kent, Ionia, and Montcalm Counties, MI. The line traverses United States Postal Service Zip Codes 48809, 48838, 48887, and 49331 and includes the stations of Lowell, Belding, and Greenville.

MMRR also seeks an exemption from the offer of financial assistance (OFA) procedures of 49 U.S.C. 10904. In support, MMRR states that it has entered into a Memorandum of Understanding to sell the line to West Michigan Trails and Greenway Coalition for interim trail use/rail banking. This request for exemption from the OFA provision will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in MMRR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Petitioner indicates that the proposed abandonment may generate comments, and it requests that the Board adopt a procedural schedule to allow it to file rebuttal to any comments received. Instead of addressing the request at this time, the Board will instead allow

petitioner to raise the matter again, if comments and replies in response to the petition are actually filed. Comments and replies to the petition for exemption will be due on March 31, 2008. Once comments and replies are filed, MMRR may request leave to file rebuttal.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 9, 2008.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption, unless the Board grants the requested exemption from the OFA process. Each OFA must be accompanied by a \$1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 31, 2008. Each trail use request must be accompanied by a \$200 filing fee. *See* 49 CFR 1002.2(f)(27)(i).

All filings in response to this notice must refer to STB Docket No. AB-364 (Sub-No. 14X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD. Replies to the petition are due on or before March 31, 2008.

Persons seeking further information concerning the abandonment procedures may contact the Board's Office of Governmental and Public Affairs at (202) 245-0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: March 3, 2008.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8-4522 Filed 3-10-08; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Open Meeting of the Advisory Committee on the Auditing Profession

AGENCY: Office of the Undersecretary for Domestic Finance, Treasury.

ACTION: Notice of meeting.

SUMMARY: The Department of the Treasury's Advisory Committee on the Auditing Profession will convene a telephone conference meeting on Tuesday, April 1, 2008, beginning at 1 p.m. Eastern Time. Members of the public may take part in the meeting by listening to the webcast accessible on the Department's Web site at <http://www.treas.gov/offices/domestic-finance/acap/index.shtml> or by calling telephone number (866) 341-2255 and using access code number 655660. Persons needing special accommodations to take part because of a disability should notify the contact person listed below.

DATES: The meeting will be held on Tuesday, April 1, 2008, at 1 p.m. Eastern Time.

ADDRESSES: The public is invited to submit written statements with the Advisory Committee by any of the following methods:

Electronic Statements

- Use the Department's Internet submission form (<http://www.treas.gov/offices/domestic-finance/acap/comments>); or

Paper Statements

- Send paper statements in triplicate to Advisory Committee on the Auditing Profession, Office of Financial Institutions Policy, Room 1418, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

In general, the Department will post all statements on its Web site (<http://www.treas.gov/offices/domestic-finance/acap/comments>) without change, including any business or personal information provided such as names, addresses, e-mail addresses, or telephone numbers. The Department will also make such statements available for public inspection and copying in the Department's Library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622-0990. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

Kristen E. Jaconi, Senior Policy Advisor to the Under Secretary for Domestic Finance, Department of the Treasury, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, at (202) 927-6618.

SUPPLEMENTARY INFORMATION:

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the regulations thereunder, David G. Nason, Designated Federal Officer of the Advisory Committee, has ordered publication of this notice that the Advisory Committee will convene a telephone conference meeting on Tuesday, April 1, 2008, beginning at 1 p.m. Eastern Time. Members of the public may take part in the meeting by listening to the webcast accessible on the Department's Web site at <http://www.treas.gov/offices/domestic-finance/acap/index.shtml> or by calling telephone number (866) 341-2255 and using access code number 655660. The agenda for this meeting is to consider Subcommittee recommendations on how to enhance the sustainability of the auditing profession and to decide whether to use the Subcommittee recommendations as the basis for a report, which will be considered at a future meeting of the

Advisory Committee and which will be published for public comment.

Dated: March 6, 2008.

Taiya Smith,

Executive Secretary.

[FR Doc. E8-4794 Filed 3-10-08; 8:45 am]

BILLING CODE 4811-42-P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice to Delete System of Records.

SUMMARY: The Department of Veterans Affairs (VA) is deleting a system of records entitled "Missing Veterans File—VA" (19VA53), which was established at 42 Fed. Reg. 49736, dated Sept. 27, 1977. The system contained records concerning veterans who could not be located after a reasonable effort by VA and included correspondence between VA facilities, including the Office of Inspector General and Regional Offices, and with the Federal Bureau of Investigation, and the U.S. Passport Office. This system of records is being deleted because it is no longer being used by the Department and there are no records remaining.

A "Report of Intention to Publish a Federal Notice of Deletion of a System of Records" and a copy of the deletion of system notice have been provided to the appropriate Congressional committees and to the Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) and guidelines issued by OMB, 65 FR 77677 (Dec. 12, 2000).

DATES: *Effective date:* March 11, 2008.

FOR FURTHER INFORMATION CONTACT:

Timothy J. McGrath, Attorney Advisor, Office of Inspector General (50C), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 565-8623.

Approved: February 25, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8-4850 Filed 3-10-08; 8:45 am]

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S. 2571/P.L. 110-193

To make technical corrections to the Federal Insecticide, Fungicide, and Rodenticide Act. (Mar. 6, 2008; 122 Stat. 649)

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